

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Mon 11/20/2017 6:45:59 PM
Subject: RE: Ex. 5 - Attorney Client
OECA Weekly Briefing (November 21 2017) spb edits.docx

OK but brief.

Ex. 5 - Attorney Client

From: Traylor, Patrick
Sent: Monday, November 20, 2017 1:35 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: FW: Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

Ex. 6 - Personal Privacy (cell)

From: Werner, Jacqueline
Sent: Monday, November 20, 2017 1:29 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Brooks, Phillip <Brooks.Phillip@epa.gov>; Belser, Evan <Belser.Evan@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>

Subject: FW: Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Rosemarie sent you an email on October 31, 2017, with more information concerning the settlement. If you have any additional questions please feel free to let me know.

Thanks,

Jacqueline

Jacqueline Robles Werner

Associate Director

Air Enforcement Division

Office of Civil Enforcement

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

WJCSouth-1117C (MC-2242A)

Washington, DC 20460

t: 202-564-1036

From: "Traylor, Patrick" <traylor.patrick@epa.gov>

Date: November 20, 2017 at 1:14:27 PM EST

To: "Brooks, Phillip" <Brooks.Phillip@epa.gov>, "Chapman, Apple" <Chapman.Apple@epa.gov>, "Belser, Evan" <Belser.Evan@epa.gov>

Subject: Ex. 5 - Attorney Client

Ex. 5 - Attorney Client ?

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

Ex. 6 - Personal Privacy (cell)

To: Emmerson, Caroline[Emmerson.Caroline@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
Cc: Mackey, Cyndy[Mackey.Cyndy@epa.gov]; DeLeon, Rafael[Deleon.Rafael@epa.gov]; Badalamente, Mark[Badalamente.Mark@epa.gov]
From: Bodine, Susan
Sent: Tue 11/14/2017 2:04:19 PM
Subject: RE: Action Requested: Review of OSRE's Proposed Response to House T&I Minority BF question related to municipal owner/operator liability

Ex. 5 - Deliberative Process

From: Emmerson, Caroline
Sent: Monday, November 13, 2017 6:31 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Mackey, Cyndy <Mackey.Cyndy@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Badalamente, Mark <Badalamente.Mark@epa.gov>
Subject: Action Requested: Review of OSRE's Proposed Response to House T&I Minority BF question related to municipal owner/operator liability

Susan,

As you know, last Tuesday (11/7) we had a conference call with HEC and House T&I staff regarding BF legislation.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Per OCIR, we are offering edits and suggestions to T&I's draft language. OCIR's summary of our 11/7 conference call with HEC and T&I staff follows. Please let me know if you have any comments/edits regarding OSRE's proposed response below. These comments include input from DOJ (Leslie Allen and Tom Swegle) and OGC (Patrick Chang). Our comments are **due by noon tomorrow (Tuesday, 11/14)**. Sorry for the short timeline. Thanks, Caroline

OSRE's Draft Response to House T&I Minority Staff

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Snyder, Raquel
Sent: Thursday, November 09, 2017 11:11 AM
To: Folkemer, Nathaniel <Folkemer.Nathaniel@epa.gov>; Emmerson, Caroline <Emmerson.Caroline@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; Boehr, Craig <Boehr.Craig@epa.gov>; Sander, Matthew <Sander.Matthew@epa.gov>; Chang, Patrick <Chang.Patrick@epa.gov>
Subject: T&I Minority Brownfields question related to municipal owner/operator liability
Importance: High

Good morning,

Here is the T&I requested IOU from the call we had on Tuesday morning.

From T&I:

Ex. 5 - Attorney Client

The T&I reported changes to 101(20)(D) were as follows:

“Section 101(20)(D) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)(D)) is amended –

“(1) by striking “ownership or control” and all that follows through “by virtue” and inserting “ownership or control through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government acquires title by virtue”; and

“(2) by inserting “or fails to exercise appropriate care (as described in paragraph (40)(D)) following acquisition,” after “from the facility”.

Ex. 5 - Attorney Client

Again, we cannot draft language but we can make edits and suggestions. **Please provide any edits or comments on or before COB Monday 11/13.**

Please let me know if you have questions or need more time.

Many thanks,

Raquel Snyder

Congressional Liaison

U.S. EPA/Office of Congressional Affairs

(202)564-9586

To: Ford, Hayley[ford.hayley@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
Cc: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Bodine, Susan
Sent: Tue 11/7/2017 1:44:13 PM
Subject: RE: Today's Enforcement Discussion

Nothing urgent. Next week is fine.

From: Ford, Hayley
Sent: Tuesday, November 7, 2017 8:41 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Today's Enforcement Discussion

Susan and Patrick,

I need to consolidate today's schedule. Do you need time with him to discuss enforcement matters or can we pick this up next week? Alternatively, if you need to discuss items with him, could you provide a briefer to Lincoln that he could review while traveling? We could also set up a call if needed.

Let us know what would be best. Apologies for the late notice.

Thanks!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Wed 11/22/2017 5:18:18 PM
Subject: Re: Draft RCRA 7003 UAO

Ex. 5 - Deliberative Process

Sent from my iPhone

On Nov 22, 2017, at 12:16 PM, Traylor, Patrick <traylor.patrick@epa.gov> wrote:

<image001.gif>

Regional draft; OCE is reviewing; I'll see it before it goes back to the region.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Kelley, Rosemarie
Sent: Wednesday, November 22, 2017 12:11 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: FW: Draft RCRA 7003 UAO

Patrick –

Attached is the draft 7003 order from the Region. We're starting to review now.

Let us know if you plan to review as well or if you would like to see our markup before it goes back to the Region.

Rosemarie

From: Saenz, Diana
Sent: Wednesday, November 22, 2017 11:59 AM
To: Sullivan, Greg <Sullivan.Greg@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: FW: Draft RCRA 7003 UAO

Just received ---

From: Madigan, Andrea
Sent: Wednesday, November 22, 2017 11:57 AM
To: Opekar, Kimberly <Opekar.Kimberly@epa.gov>; Bohan, Suzanne <bohan.suzanne@epa.gov>; Sander, Matthew <Sander.Matthew@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Lensink, Andy <Lensink.Andy@epa.gov>; Urdiales, Aaron <Urdiales.Aaron@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Raack, Pete <Raack.Pete@epa.gov>; Neves, Peter <Neves.Peter@epa.gov>; Crossland, Andy <Crossland.Andy@epa.gov>
Cc: Benevento, Douglas <benevento.douglas@epa.gov>
Subject: Draft RCRA 7003 UAO

Attached for your review and comment is a draft RCRA 7003 Order in connection with the

Ex. 5 - Attorney Client

Please get us your comments by noon (mountain time) today. We are going to give it another close proof read here as well. Thank you.

Andrea Madigan

CERCLA Supervisory Attorney

US EPA Region 8

1595 Wynkoop Street

Denver, CO 80202

303 312-6904

madigan.andrea@epa.gov

Ex. 5 - Attorney Client 003.draft.doc>

To: Bowman, Liz[Bowman.Liz@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Wed 11/15/2017 1:51:19 AM
Subject: Re: Request for input for pending NYT story

Ok
I will let him know tomorrow

Sent from my iPhone

On Nov 14, 2017, at 8:43 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

On Nov 14, 2017, at 8:34 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

Begin forwarded message:

From: Doug Parker <doug.parker@earthandwatergroup.com>
Date: November 14, 2017 at 7:11:58 PM EST
To: "Bodine, Susan" <bodine.susan@epa.gov>
Cc: "Traylor, Patrick" <traylor.patrick@epa.gov>
Subject: Re: Request for input for pending NYT story

Hello Susan (and Patrick) -

I'd be happy to share my perspective on that era in terms of criminal enforcement numbers. It is likely that the reporter would ask about current numbers, so I'd also likely share my thoughts/hope that numbers increase in this administration.

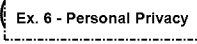
If you'd like to pass on my cell to the NYT that is fine. Feel free to call as well if you'd prefer to chat further.

Best,

Doug

Doug Parker | **Earth& Water Group**

1455 Pennsylvania Ave., NW, Suite 400, Washington, DC 20004

(202) 280-6362 (o) |  (c) | www.earthandwatergroup.com

<Outlook-1482168080.png>

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From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Tuesday, November 14, 2017 6:48 PM
To: Doug Parker
Cc: Traylor, Patrick
Subject: FW: Request for input for pending NYT story

Doug,

The NYT is doing a piece on EPA enforcement. We are going to provide them with the stats on the drastic reduction of CID agents from 2010 to 2016 (from 206 to 156).

Would you be willing to provide a quote about the lack of support for criminal enforcement in the last administration? Something along the lines of your exit memo to Cynthia?

In March 2016 you said: "There a wider lack of support for the foundational elements of the criminal enforcement program. ... I make this statement at a time when we are at the fewest number of criminal investigators in roughly two decades, the operational support within OECA (i.e. HR, IT, etc.) has deteriorated dramatically, and the perception of many of your law enforcement officers is that their work and profession is not fully valued by the political leadership of today's EPA."

From: Lipton, Eric [<mailto:lipton@nytimes.com>]
Sent: Monday, November 13, 2017 1:50 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Ivory, Danielle <danielle.ivory@nytimes.com>
Subject: Request for input for pending NYT story

Hello Liz

Hope you had nice weekend.

I am working with another NYT reporter named Danielle Ivory on a piece that looks at EPA enforcement efforts and how they are changing under the new administration. We very much hope that the EPA will engage with us on this story as we do want your substantive input for this piece.

As part of the story, I would like to arrange an on-the-record interview this week with someone to discuss agency enforcement and how it is proceeding, what types of priorities the new administration might have for enforcement and what trends it is seeing emerge. I also want to get more insight into what the agency means when it discusses "cooperative federalism," in terms of how that will play out with respect to actual implementation of enforcement efforts.

In addition to these broader questions about how the EPA defines its enforcement priorities in the new administration and its focus on cooperative federalism, the story will include a number of additional

elements

1) We have assembled our own database from ECHO that examines civil penalties and injunctive relief through administrative and judicial actions in the first nearly nine months of the new leadership at EPA and we have compared this data to similar period of two prior administrations. The data pull is structured so that we look at cases started/allowed to be filed since Feb. 17th through November 9th. We also did this same analysis for Feb. 17 through August 16, which is a six month period. During these two periods, we have pulled data on

++ All civil complaints – administrative or judicial, whether settled or still pending

++ Consent decrees lodged (complaint filed at the same time) whether entered or not

We want like to have a conversation with your enforcement team leader to discuss this data and what you think it says about how enforcement has changed in the new administration.

2) As part of our reporting, we also have been looking at a collection of Notices of Violation, which are often the first step before enforcement action. The nonprofit group, Environmental Integrity Project did a FOIA for NOVs dating back to Jan. 1 2014. We have access to that FOIA response and have been looking at certain individual cases, with a particular focus on cases that have not had any apparent follow up action, based on ECHO or judicial records. Our goal would be to understand where else we should be looking to see evidence of follow up on these matters--perhaps we are missing it--or to understand why there has perhaps not been a resolution yet on these matters. We realize that there are different reasons why there might not be follow up in any particular case, in terms of enforcement.

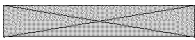
Happy to discuss this further on the phone. I realize I have not shared the actual data we have pulled or the specific NOVs we are looking at, among the hundreds provided in response to the FOIA.

The goal of this email is to get the conversation started, as we need you input for the story this week. As again, I do hope that we can have a productive conversation for this story.

I can be reached at 202 862 0448

Eric

Eric Lipton



Washington Bureau

202 862 0448 office

Ex. 6 - Personal Privacy mobile

lipton@nytimes.com

Sent from my iPhone

To: Benitez-Clark, Rowena[Benitez-Clark.Rowena@epa.gov]; Bailey, Ethel[Bailey.Ethel@epa.gov]; Miles, Erin[Miles.Erin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
From: Bodine, Susan
Sent: Tue 11/7/2017 1:32:31 PM
Subject: RE: Rep. McMorris Rogers EPA Meeting Request re: Black Fly Registration

Yes please

From: Benitez-Clark, Rowena
Sent: Tuesday, November 7, 2017 8:29 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Bailey, Ethel <Bailey.Ethel@epa.gov>; Miles, Erin <Miles.Erin@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Rep. McMorris Rogers EPA Meeting Request re: Black Fly Registration

Susan...did you want me to block this time on your calendar? It seems this meeting is now scheduled for Nov 15th now at 8:45. You may have to leave your daily 8 o'clock a little earlier. The invite will be coming from Christian Rodrick.

Tina

From: Bodine, Susan
Sent: Monday, November 06, 2017 5:44 PM
To: Bailey, Ethel <Bailey.Ethel@epa.gov>; Benitez-Clark, Rowena <benitez-clark.rowena@epa.gov>; Miles, Erin <Miles.Erin@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: Fwd: Rep. McMorris Rogers EPA Meeting Request re: Black Fly Registration

Sent from my iPhone

Begin forwarded message:

From: "Ringel, Aaron" <ringel.aaron@epa.gov>

Date: November 6, 2017 at 5:09:31 PM EST

To: "Traylor, Patrick" <traylor.patrick@epa.gov>, "Beck, Nancy" <Beck.Nancy@epa.gov>, "Baptist, Erik" <baptist.erik@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Wagner, Kenneth" <wagner.kenneth@epa.gov>, "Schuster, Cindy" <Schuster.Cindy@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
Cc: "Lyons, Troy" <lyons.troy@epa.gov>, "Shimmin, Kaitlyn" <shimmin.kaitlyn@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>

Subject: RE: Rep. McMorris Rogers EPA Meeting Request re: Black Fly Registration

Slight change, due to a conflict we will need to do this meeting on November 15th. The Congresswoman has offered 8:45AM that day and potentially is willing to come to EPA. Please confirm that you can make this time/date as soon as possible.

Christian Rodrick in OCIR is going to send around a meeting invite to everyone as well to hold this time.

Thanks,

-Aaron

From: Ringel, Aaron

Sent: Monday, November 6, 2017 4:39 PM

To: Traylor, Patrick <traylor.patrick@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Ken Wagner (wagner.kenneth@epa.gov) <wagner.kenneth@epa.gov>; Schuster, Cindy <Schuster.Cindy@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>

Cc: Troy Lyons (lyons.troy@epa.gov) <lyons.troy@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Christian Rodrick (Rodrick.Christian@epa.gov) <Rodrick.Christian@epa.gov>; Ryan Jackson (jackson.ryan@epa.gov) <jackson.ryan@epa.gov>

Subject: Rep. McMorris Rogers EPA Meeting Request re: Black Fly Registration

All,

See below email from Conference Chairwoman McMorris Rogers' Chief of Staff requesting a meeting between EPA staff from OECA/OGC/OCSP and the Congresswoman in regards to a constituent company (Sterling International) and their concerns about the chemical registration process not applying to their competitor Black Fly. After speaking with Ryan, he suggested Region 10 should be included in this as well so I am looping in Ken Wagner from DC as well as Cindy Schuster and Marianne Holsman from R10.

To help facilitate this meeting I would appreciate you letting us know your availability to meet with the Congresswoman on one of the below dates she is available. The meeting would be on the hill and shouldn't take more than 30-45 minutes. If you could respond back ASAP it would be much appreciated, they are looking to get this set up quickly and the first date is Thursday of this week.

- [REDACTED] Thursday, November 9 at 11:00am
- [REDACTED] Monday, November 13 at 2:00pm
- [REDACTED] Tuesday, November 14 at 3:30pm

Best,

Aaron

Aaron E. Ringel

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S. Environmental Protection Agency

W: 202.564.4373

Ringel.Aaron@epa.gov

From: Ringel, Aaron [<mailto:ringel.aaron@epa.gov>]

Sent: Thursday, November 2, 2017 5:42 PM

To: Field, Ian

Cc: Jackson, Ryan; Neill, Andrew; Rodrick, Christian; Lyons, Troy

Subject: Re: Requesting meeting with EPA Team Regarding Black Fly Registration

Hi Ryan and Aaron,

I understand you have been an incredible help to our constituent (Sterling International) as they deal with concerns over their competitor's (Black Fly) compliance with EPA's chemical registration process. Thank you so much!

Despite your help, we just heard EPA will no longer require Black Fly to register their products and comply with the same standards. As you may recall, our constituent's company, Sterling, paid over \$2 million complying with these standards. And to make matters worse, after they registered their formula Black Fly was able to copy it.

The Congresswoman's goal is fairness. She has been working on this issue for nearly a decade, dealing with much pushback and delay during the former administration. We appreciate your attention to this matter and would like the chance to learn more about why Black Fly and Sterling International seem to be treated differently.

Could we set up a meeting with the Congresswoman and the following:

- [REDACTED] Representative from EPA biopesticides office
- [REDACTED] Representative from EPA enforcement and compliance office
- [REDACTED] EPA General Counsel
- [REDACTED] An EPA political appointee

Is there someone on your team who can help us set this up? We'd like to get something on the books as soon as possible.

Thank you very much,

Ian

Ian Field

Chief of Staff

Congresswoman Cathy McMorris Rodgers (WA-5)

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
From: Bodine, Susan
Sent: Tue 11/28/2017 10:25:07 PM
Subject: RE: O&G Roundtable

Still waiting to hear back from Daisy and Samantha.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Starfield, Lawrence
Sent: Tuesday, November 28, 2017 5:24 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>
Subject: RE: O&G Roundtable

Susan and I had a call with Jim Kenney (working for the AO now) and Region 8.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

If you would like additional information, let us know and we can set up a briefing.

Larry

From: Traylor, Patrick
Sent: Tuesday, November 28, 2017 4:19 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>
Subject: O&G Roundtable

I heard today at the Houston O&G conference about the O&G roundtable discussions. I'm still not in the loop on participating in these meetings. How do we get me firmly in the loop?

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Kenney, James

Sent: Wednesday, November 22, 2017 4:44 PM

To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>

Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>

Subject: Oil & Gas Roundtable

Hi Susan and Larry,

As a follow up to our discussion on the oil and natural gas roundtable last week, I am sharing the following update. I spoke with individuals representing two of the organizations that wrote to EPA last spring, prompting the Administrator's response stating EPA would host an oil and gas roundtable. In separate phone calls, the Colorado Oil and Natural Gas Association (COGA) and Western Energy Alliance (WEA) support the concept of discussing barriers and solutions with stakeholders (i.e., EPA, states, tribes, industry, trades and NGOs).

Roundtable Topics:

- Both COGA and WEA believe that some contentions manifest through compliance but not all contentions are exclusively compliance issues. WEA referred to such compliance issues as “symptoms to underlying issues” of regulation, permitting, policy, etc. COGA and WEA support a roundtable approach that is broader than “compliance and enforcement” to get at the root causes of various issues. For example, both organizations discussed federal/state air issues in Colorado. Colorado’s state regulations approximate federal Clean Air Act NSPS OOOO requirements. The dual, overlapping nature of such requirements are problematic for operators as it leaves them vulnerable where the requirements vary in form over substance. COGA and WEA pointed to this becoming an issue during inspections and subsequent enforcement (symptom) but the dual nature of equivalent state/federal regulatory programs is the underlying issue (root cause). Addressing root causes may be related to regulation, permitting, policy *or* compliance assurance.

Roundtable Format:

- Neither COGA nor WEA offered a roundtable format. Instead, both individuals asked me to offer ideas. I offered various formats: (1) a small group listening session where they have an audience with EPA senior leaders and career staff to discuss concerns, (2) a larger, multi-stakeholder listening with EPA senior leaders and career staff to discuss concerns, (3) a discussion of concerns *and* a discussion of solutions with *or* without oil and natural gas stakeholders, etc. Both COGA and WEA stated they prefer discussing barriers *and* discussing solutions with oil and natural gas stakeholders.

- Both organizations asked about the number of roundtables we plan to host. I shared that we are entertaining a single EPA roundtable, co-hosted with ECOS and IOGCC. Following the initial roundtable, ECOS and IOGCC, would continue the dialogue at their respective Spring meetings in March and May. Both COGA and WEA liked that approach and thought it was a good idea. COGA and WEA both alluded to the ECOS and IOGCC efforts related to cooperative federalism. WEA suggested ECOS and IOGCC could propose resolutions and ratify them helping to institute some of the solutions to specific barriers.

- When asked about an EPA roundtable product, I said we are considering options that include a “deliverable” that would likely constitute a menu of solutions related to barriers for stakeholders to consider. They liked the concept as a jumping off point for states, industry, etc. to have further discussions, noting that some barriers and solution may be national in scope while others may be regional or local.

- Optically, neither organization was concerned about an EPA employee or contractor facilitating the roundtable but WEA said it is important to ensure the facilitator knows the oil and natural gas industry and its various dynamics. A facilitator who does not know the sector could weaken the roundtable and its outcomes.

• I let both organizations know that EPA is contemplating sending a draft-final agenda to prospective roundtable participants to ensure the best possible outcomes. And, if there was an overwhelming reply from prospective participants that EPA, ECOS and IOGCC missed the mark, we would entertain changing the agenda as prospective participants indicate. COGA and WEA thought that was appropriate approach, demonstrating a sincere interest in meaningful outcomes.

• Both organizations asked to participate. I let them know I appreciated their time and interest in participating.

Next Steps:

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Finally, I wanted to let you both know that COGA said they were appreciative of my consultation with them. WEA said our approach was “thoughtful” and appreciated my call as well.

Happy Thanksgiving to everyone.

Thanks,

Jim

--

James C. Kenney

Senior Policy Advisor

Unconventional Oil and Gas
US EPA

Desk/Mobile: (202) 768-2618

Email: kenney.james@epa.gov

Please note: *I am geographically located in Albuquerque, New Mexico (Mountain Time Zone).*

As with any email, this message may contain deliberative, attorney-client or otherwise privileged material. Do not release this message without the appropriate review. If you are not the intended recipient, kindly advise and delete this message/attachment.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 14 2017

REPLY TO THE ATTENTION OF:

The Honorable Karen W. Weaver, Mayor
City of Flint
1101 South Saginaw Street
Flint, Michigan 48502

W-15J

Mr. Keith Creagh, Director
Michigan Department of Natural Resources
Constitution Hall
525 West Allegan Street
P.O. Box 30028
Lansing, Michigan 48909

Re: EPA's Requested Action Items Resulting from August 23, 2017 Meeting between EPA, City of Flint, and State of Michigan Regarding Compliance with EPA's Emergency Order

Dear Mayor Weaver and Director Creagh:

This letter follows up on EPA's August 23, 2017 Meeting with Respondents City of Flint (City), Michigan Department of Environmental Quality (MDEQ), and the State of Michigan (State) regarding their efforts to comply with EPA's January 21, 2016 Emergency Order and the November 17, 2016 First Amendment (Order). Specifically, I am requesting actions related to three areas:

1. Staffing issues at the Flint Public Water System (PWS) [Paragraph 61 of EPA's Order];
2. Completion of the corrosion control study on the City's current water source, i.e., Great Lakes Water Authority (GLWA) [Paragraph 59 of EPA's Order]; and
3. Documentation that Respondents have entered into a formal agreement(s) to ensure that the City has continued access to GLWA water after September 30, 2017 [Paragraph 60.b.iv of EPA's Order].

1. Staffing Issues at the Flint PWS

EPA's August 10, 2017 letter outlined EPA's perspective on Respondents' compliance with paragraph 61 of EPA's Order, i.e., that the City must demonstrate, and the MDEQ and State must ensure, *the City has the necessary, capable and qualified personnel* required to operate the Flint PWS. EPA thanks the City for its August 18, 2017 written response on behalf of Respondents. The contents of the August 18th response were discussed in detail during the August 23rd meeting:

- In the August 18th written response, the City stated that it cannot attract and retain qualified personnel because it does not offer competitive compensation packages. During the meeting,

Sylvester Jones, the City Administrator, and representatives from the City's Human Resources Department provided an update to EPA on the City's efforts to fill critical vacancies and to address challenges with maintaining the proper staffing level at the PWS. The City informed EPA that it is conducting a compensation review process and also emphasized that compensation and pay adjustments are a City priority in order to ensure that qualified plant staff can be hired and retained.

- EPA had a number of questions regarding the staffing chart the City included in its August 18th response which set forth the City's timing and approach for filling the PWS's vacant positions:
 - 1) When will the City hire the search firm for the Director – Public Works position?
 - 2) What is the timing for getting the contract in place for the short-term approach for meeting laboratory staffing needs?
 - 3) What is the projected hiring date for the positions targeted for promotion, Operator-In-Charge and Distribution Supervisor, and when will those positions be advertised?

EPA looks forward to the City's responses to these questions.

- The last page of the August 18th letter included a proposed organization chart that, as of September 1, 2017, would include a new Water Superintendent position. EPA raised several questions about the proposed staffing chart, including:
 - 1) What are the roles and responsibilities for the new position?
 - 2) Please also explain the roles and responsibilities for the four other superintendent positions, which are all vacant and report to the new Water Superintendent position.
 - 3) Where is the Water Services Center located within this proposed organizational structure?
 - 4) What is the timing for filling both the Operator Superintendent and Maintenance Superintendent positions? These positions were not listed in the vacancy chart on page 2 of the August 18, 2017 letter.

During the August 23rd meeting, Sylvester Jones requested the opportunity to get back to EPA with responses to the above questions. We look forward to the City's response.

2. Corrosion Control Study for the City's Current Water Source

Paragraph 59 of EPA's January 21, 2016 Order requires the Respondents to optimize corrosion control for the PWS as operated in general, but also with its current source water (i.e., GLWA). The City has been using this source water since October 2015. The City's May 19, 2017 revised Drinking Water Source Selection Public Participation Plan and CCS indicated that Phase 1 of the CCS would be an evaluation of GLWA-only water. Please provide EPA with the final study plan that includes a status update and schedule for completion of the CCS for the current GLWA source water.

EPA is also interested in the City's progress in developing associated standard operating procedures (SOPs) and plans. During the August 23rd meeting, the City informed EPA that it has developed and implemented an SOP to prevent a lapse in the chlorine feed, which occurred at the water treatment plant in July. While EPA recognizes this action, EPA continues to request from Respondents written updates on all efforts underway to meet the requirements of paragraph 59, including: (1) Lead and Copper Rule compliance plan (59.a); (2) Plan for daily monitoring of water quality parameters in the distribution system (59.b); and (3) Plans for corrosion control equipment and daily monitoring of finished water corrosion control parameters (59.c).

3. Documentation of Continued Access to GLWA Source Water after September 30, 2017

Finally, I am following up on the City's December 16, 2016 letter to EPA requesting an extension of time in which to meet the EPA Order requirement in paragraph 60.b.iv: "Respondents shall provide documentation to EPA, and make publicly available under Paragraph 51, within thirty days of the effective date of the First Amendment, that Respondents have made arrangements to have continued access to its current GLWA source water until its transition to a new source water is complete." During our July 19th meeting, EPA learned that the Flint City Council and the Receivership Transition Authority Board approved a short-term contract with GLWA through September 30, 2017. We were encouraged to hear of a formal agreement for continued access to GLWA water through the end of September, but we are very interested in understanding the status of any formal agreements that will ensure the availability of GLWA water on and after October 1st.

EPA's understanding is that the Genesee County Drain Commissioner (GCDC) plans to use the existing 72-inch transmission line which connects the City to GLWA water to complete its own distribution system when GCDC's new water treatment plant comes on-line in October, 2017. We understand that GCDC is currently constructing an additional 42-inch transmission line that would meet its future needs, and the completion of this transmission line would also allow the City continued access to the existing 72-inch transmission line. However, EPA requests documentation from the Respondents that clearly demonstrates that the City will have continued access to GLWA water through GCDC's 72-inch transmission line until any future planned switches in source water. It is critical that GCDC provides written assurance that the City will not lose access to the transmission line and the continued ability to deliver GLWA water to its residents. EPA reiterated the need for this documentation during the August 23rd meeting and was advised that the required documentation is being held up in the current litigation and mediation efforts among the State, City, GCDC, GLWA, and Karegnondi Water Authority. In addition, it is critical that the City keep EPA apprised of the timing for the final water source selection.

EPA requests that Respondents provide a written response to all requests and questions in this letter no later than Friday, **September 22, 2017**. We will also be happy to discuss these issues during our next EPA Order compliance meeting, which is currently scheduled for Wednesday, September 20, 2017.

I appreciate your prompt attention to this matter. Please do not hesitate to contact me at (312) 353-8320 or korleski.christopher@epa.gov with any questions or concerns that you may have regarding the content of this letter and the requirements of EPA's Order.

Sincerely,



Christopher Korleski
Director, Water Division

cc: Mr. Robert Kaplan, Acting Regional Administrator, EPA Region 5
Mr. Sylvester Jones, City Administrator, City of Flint
Mr. Richard Baird, Michigan Governor's Office
Ms. C. Heidi Grether, Director, MDEQ
Ms. Amy Epkey, Environment Deputy Director, MDEQ
Mr. Eric Oswald, Director, Drinking Water and Municipal Assistance Division, MDEQ



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGIONAL ADMINISTRATOR
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 10 2017

The Honorable Karen W. Weaver, Mayor
City of Flint
1101 South Saginaw Street
Flint, Michigan 48502

Mr. Keith Creagh, Director
Michigan Department of Natural Resources
Constitution Hall
525 West Allegan Street
P.O. Box 30028
Lansing, Michigan 48909

Re: Concerns with Staffing Issues at the Flint Public Water System and Compliance with
EPA's Emergency Order

Dear Mayor Weaver and Director Creagh:

This letter follows up on EPA's on-going discussions with Respondents – the City of Flint (City), Michigan Department of Environmental Quality (MDEQ), and the State of Michigan (State) – regarding compliance with EPA's January 21, 2016 Emergency Order and the November 17, 2016 First Amendment (Order). Specifically, I wish to emphasize EPA's continued and significant concerns about ongoing staffing issues at the Flint Public Water System (PWS). It is the City's obligation to ensure that sufficient management and operational staff are hired, trained, and maintained to continuously oversee and operate the PWS in an appropriate manner. EPA is concerned that the City is not keeping the PWS staffed at the necessary levels.

Paragraph 61 of EPA's January 21, 2016 Order requires that, "[w]ithin 15 days of the effective date of this Order the City must demonstrate, and the MDEQ and State must ensure, **the City has the necessary, capable and qualified personnel** required to perform the duties and obligations required to ensure the PWS complies with the SDWA¹ and NPDWRs²."

During monthly meetings between EPA and Respondents to discuss compliance with the Order, EPA has requested updates on Respondents' efforts to meet the requirements of Paragraph 61, including the City's hiring process in filling vacancies. The City has reported that it has faced significant delays in filling vacant positions due to, among other things, a lack of qualified applicants. During the recent July 19th meeting, the City presented its current staffing charts and hiring plans for the PWS, including the water treatment plant (WTP) and water services center. The information indicated that the WTP and water services center are short-staffed. EPA is concerned that such short-staffing could impact the City's

¹ Safe Drinking Water Act

² National Primary Drinking Water Regulations

ability to meet current operational needs. Indeed, EPA received from MDEQ a July 26, 2017 incident report, prepared by an employee of the WTP, that showed a lapse in the chlorine feed at the WTP. Data indicated that chlorine residuals levels did not drop below 0.4 mg/L during that time; nevertheless, a lack of adequate staffing (resulting in existing staff being over-extended and overworked) likely contributed to this event and indicates a vulnerability at the Flint PWS that must be addressed.

EPA is also concerned that effective management of the PWS is hindered because Flint has not retained a permanent employee serving as the WTP supervisor/operator in charge nor a permanent Director of Public Works. EPA recognizes the challenges in hiring a permanent qualified operator in charge of the WTP, and commends MDEQ and the City for bringing on a contractor, F&V Operations and Resource Management, Inc., to serve as certified operator on an interim basis. However, optimal continuing operation of the plant requires both permanent senior management personnel as well as a sufficient number of qualified staff to handle the various operations that must be performed.

In addition, given that federal funding has been awarded to MDEQ, it is important to note that under the Drinking Water State Revolving Fund (DWSRF), systems eligible to receive funding must have technical, managerial and financial capability, or agree to undertake feasible and appropriate changes in operations to ensure compliance over the long term. Staffing issues, unless addressed, could also have an impact on any determination regarding Flint's technical, managerial and financial capability under the DWSRF.

EPA requests that the City and MDEQ provide a detailed update on efforts underway to ensure compliance with Paragraph 61 of the EPA Order. Specifically, EPA requests that the City and MDEQ submit a plan by **Friday, August 18** to ensure that the Flint PWS has the necessary, capable and qualified personnel so that the PWS is properly operated at all times.

I appreciate your prompt attention to this matter. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Robert A. Kaplan
Acting Regional Administrator

cc: Mr. Chris Korleski, Water Division, EPA Region 5
Mr. Sylvester Jones, City Administrator, City of Flint
Mr. Richard Baird, Michigan Governor's Office
Ms. C. Heidi Grether, Director, MDEQ
Ms. Amy Epkey, Environment Deputy Director, MDEQ
Mr. Eric Oswald, Director, Drinking Water and Municipal Assistance Division, MDEQ

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Bodine, Susan
Sent: Wed 11/22/2017 5:11:14 PM
Subject: Re: Please be prepared to receive all press calls re: TransCanada spill

I spoke to Troy
He will report back after speaking to the Governor's staff

Sent from my iPhone

On Nov 22, 2017, at 12:09 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Susan just talked to SP, can everyone coordinate with her? Thank you.

Sent from my iPhone

On Nov 22, 2017, at 11:56 AM, Lyons, Troy <lyons.troy@epa.gov> wrote:

Thank you, Susan.

I have pinged the Gov's COS. I will report back once I connect.

From: Bodine, Susan
Sent: Wednesday, November 22, 2017 11:54 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Fwd: Please be prepared to receive all press calls re: TransCanada spill

See below

Sent from my iPhone

Begin forwarded message:

From: "Traylor, Patrick" <traylor.patrick@epa.gov>
Date: November 22, 2017 at 11:51:38 AM EST
To: "Benevento, Douglas" <benevento.douglas@epa.gov>
Cc: "Bodine, Susan" <bodine.susan@epa.gov>
Subject: RE: Please be prepared to receive all press calls re: TransCanada spill

Thank you. Looping in Susan.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Benevento, Douglas
Sent: Wednesday, November 22, 2017 11:11 AM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Fwd: Please be prepared to receive all press calls re: TransCanada spill

I will call Steve today.

Sent from my iPhone

Begin forwarded message:

Hi Andrew,

It came up in a conversation with Kim McIntosh, in the SD ER program.

She said the State might back out entirely and refer oversight of the project and all the press calls to EPA. Apparently, the Director's "head exploded" when he heard we were filing a RCRA order. This may just be a knee-jerk reaction in the heat of the moment, but SD sounded really angry. Whatever decision SD makes, it would be determined at a management level much higher than Kim.

I told Kim that my objective is to observe the cleanup and provide a firsthand account to the office. I stressed that I am coming to support the State's efforts and not with any intent of directing the response.

I wanted to give you a heads up so we are prepared in the event it does happen.

Joyel

Joyel R. Dhieux
Federal On-Scene Coordinator
U.S. Environmental Protection Agency
Ph: 303-312-6647
Cell: 720-441-9961

On Nov 22, 2017, at 7:56 AM, Mutter, Andrew
<mutter.andrew@epa.gov> wrote:

Joyel,

Thanks for the heads up. Do you know who made the comments? That will be helpful when I speak to the comms director.

Best regards,

Andrew

Andrew Mutter

Director, Office of Communication and Public Involvement

U.S. Environmental Protection Agency, Region 8 (Denver, CO)

Office: 303.312.6448

Cell: 720.520.3047

Twitter: @EPARegion8

Facebook: U.S. EPA Region 8

Webpage: EPA Region 8 (Mountains and Plains)

-----Original Message-----

From: Dhieux, Joyel

Sent: Wednesday, November 22, 2017 7:45 AM

To: Mutter, Andrew <mutter.andrew@epa.gov>; Mylott, Richard
<Mylott.Richard@epa.gov>

Cc: Smidinger, Betsy <Smidinger.Betsy@epa.gov>; Williams, Laura
<williams.laura@epa.gov>; Ostrander, David
<Ostrander.David@epa.gov>; Griswold, Hays
<Griswold.Hays@epa.gov>

Subject: Please be prepared to receive all press calls re: TransCanada
spill

Hi Andrew and Rich,

I spoke with SD DNR this morning regarding my upcoming site visit. I'm not sure whether this is an official decision or just an off-the-cuff remark made in the heat of the discussion, but SD may decide to start referring all press calls and all calls related to the spill to EPA.

I wanted to give you a heads up, if in fact they do. Who should I refer calls to?

Thanks,

Joyel

Joyel R. Dhieux

Federal On-Scene Coordinator

U.S. Environmental Protection Agency

Ph: 303-312-6647

Cell: 720-441-9961

To: Bowman, Liz[Bowman.Liz@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Tue 11/21/2017 8:40:13 PM
Subject: RE: Memo for the Administrator
[msds.pdf](#)

Ex. 5 - Deliberative Process

Attached is a material safety data sheet. Exposure limits under OSHA 5 ppm or 10 ppm time weighted average.

From: Bowman, Liz
Sent: Tuesday, November 21, 2017 3:34 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: Memo for the Administrator

If you just want general information on benzene, this might work:

Benzene is a colorless, sweet-smelling chemical that can be derived from natural gas, crude oil, or coal.

What is benzene?

Benzene is primarily used as a feedstock, or raw material, to

make other industrial chemicals, such as ethylbenzene, cumene and cyclohexane. Benzene is also used as a solvent in the chemical and pharmaceutical industries.

Most benzene exposure comes from the air from a number of sources, including forest fires, auto exhaust and gasoline from fueling stations. Benzene in cigarette smoke is a major source of exposure. Very low levels of benzene have been detected in fruits, vegetables, nuts, dairy products, eggs and fish. Most people are exposed to only very tiny amounts of benzene from water and food.

From: Lyons, Troy
Sent: Tuesday, November 21, 2017 3:06 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: Memo for the Administrator
Importance: High

For the group's review

From: Bodine, Susan
Sent: Tuesday, November 21, 2017 3:03 PM
To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Re: Memo for the Administrator

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Sounds like that is the plan

Sent from my iPhone

On Nov 21, 2017, at 2:54 PM, Ferguson, Lincoln <ferguson.lincoln@epa.gov> wrote:

Once this is complete, he'd like to meet with this group + Liz by the end of the day

From: Ferguson, Lincoln

Sent: Tuesday, November 21, 2017 2:28 PM

To: Bodine, Susan <bodine.susan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>;
Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Cory, Preston (Katherine) <Cory.Preston@epa.gov>

Subject: Memo for the Administrator

The Administrator just got off the phone with the Governor.

A few action items:

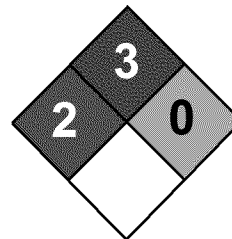
Ex. 5 - Deliberative Process

Lincoln Ferguson

Senior Advisor to the Administrator

U.S. EPA

(202) 564-1935



Health	2
Fire	3
Reactivity	0
Personal Protection	H

Material Safety Data Sheet

Benzene MSDS

Section 1: Chemical Product and Company Identification

Product Name: Benzene

Catalog Codes: SLB1564, SLB3055, SLB2881

CAS#: 71-43-2

RTECS: CY1400000

TSCA: TSCA 8(b) inventory: Benzene

CI#: Not available.

Synonym: Benzol; Benzine

Chemical Name: Benzene

Chemical Formula: C₆H₆

Contact Information:

Sciencelab.com, Inc.

14025 Smith Rd.

Houston, Texas 77396

US Sales: **1-800-901-7247**

International Sales: **1-281-441-4400**

Order Online: ScienceLab.com

CHEMTREC (24HR Emergency Telephone), call:

1-800-424-9300

International CHEMTREC, call: 1-703-527-3887

For non-emergency assistance, call: 1-281-441-4400

Section 2: Composition and Information on Ingredients

Composition:

Name	CAS #	% by Weight
Benzene	71-43-2	100

Toxicological Data on Ingredients: Benzene: ORAL (LD50): Acute: 930 mg/kg [Rat]. 4700 mg/kg [Mouse]. DERMAL (LD50): Acute: >9400 mg/kg [Rabbit]. VAPOR (LC50): Acute: 10000 ppm 7 hours [Rat].

Section 3: Hazards Identification

Potential Acute Health Effects:

Very hazardous in case of eye contact (irritant), of inhalation. Hazardous in case of skin contact (irritant, permeator), of ingestion. Inflammation of the eye is characterized by redness, watering, and itching.

Potential Chronic Health Effects:

CARCINOGENIC EFFECTS: Classified A1 (Confirmed for human.) by ACGIH, 1 (Proven for human.) by IARC. **MUTAGENIC EFFECTS:** Classified POSSIBLE for human. Mutagenic for mammalian somatic cells. Mutagenic for bacteria and/or yeast. **TERATOGENIC EFFECTS:** Not available. **DEVELOPMENTAL TOXICITY:** Classified Reproductive system/toxin/female [POSSIBLE]. The substance is toxic to blood, bone marrow, central nervous system (CNS). The substance may be toxic to liver, Urinary System. Repeated or prolonged exposure to the substance can produce target organs damage.

Section 4: First Aid Measures

Eye Contact:

Check for and remove any contact lenses. In case of contact, immediately flush eyes with plenty of water for at least 15 minutes. Cold water may be used. WARM water MUST be used. Get medical attention immediately.

Skin Contact:

In case of contact, immediately flush skin with plenty of water. Cover the irritated skin with an emollient. Remove contaminated clothing and shoes. Wash clothing before reuse. Thoroughly clean shoes before reuse. Get medical attention.

Serious Skin Contact:

Wash with a disinfectant soap and cover the contaminated skin with an anti-bacterial cream. Seek immediate medical attention.

Inhalation:

If inhaled, remove to fresh air. If not breathing, give artificial respiration. If breathing is difficult, give oxygen. Get medical attention if symptoms appear.

Serious Inhalation:

Evacuate the victim to a safe area as soon as possible. Loosen tight clothing such as a collar, tie, belt or waistband. If breathing is difficult, administer oxygen. If the victim is not breathing, perform mouth-to-mouth resuscitation. Seek medical attention.

Ingestion:

Do NOT induce vomiting unless directed to do so by medical personnel. Never give anything by mouth to an unconscious person. If large quantities of this material are swallowed, call a physician immediately. Loosen tight clothing such as a collar, tie, belt or waistband.

Serious Ingestion: Not available.

Section 5: Fire and Explosion Data

Flammability of the Product: Flammable.

Auto-Ignition Temperature: 497.78°C (928°F)

Flash Points: CLOSED CUP: -11.1°C (12°F). (Setaflash)

Flammable Limits: LOWER: 1.2% UPPER: 7.8%

Products of Combustion: These products are carbon oxides (CO, CO₂).

Fire Hazards in Presence of Various Substances:

Highly flammable in presence of open flames and sparks, of heat. Slightly flammable to flammable in presence of oxidizing materials. Non-flammable in presence of shocks.

Explosion Hazards in Presence of Various Substances:

Risks of explosion of the product in presence of mechanical impact: Not available. Risks of explosion of the product in presence of static discharge: Not available. Explosive in presence of oxidizing materials, of acids.

Fire Fighting Media and Instructions:

Flammable liquid, soluble or dispersed in water. SMALL FIRE: Use DRY chemical powder. LARGE FIRE: Use alcohol foam, water spray or fog.

Special Remarks on Fire Hazards:

Extremely flammable liquid and vapor. Vapor may cause flash fire. Reacts on contact with iodine heptafluoride gas. Dioxygenyl tetrafluoroborate is as very powerful oxidant. The addition of a small particle to small samples of benzene, at ambient temperature, causes ignition. Contact with sodium peroxide with benzene causes ignition. Benzene ignites in contact with powdered chromic anhydride. Vigorous or incandescent reaction with hydrogen + Raney nickel (above 210 C) and bromine trifluoride.

Special Remarks on Explosion Hazards:

Benzene vapors + chlorine and light causes explosion. Reacts explosively with bromine pentafluoride, chlorine, chlorine trifluoride, diborane, nitric acid, nitryl perchlorate, liquid oxygen, ozone, silver perchlorate. Benzene + pentafluoride and methoxide (from arsenic pentafluoride and potassium methoxide) in trichlorotrifluoroethane causes explosion. Interaction

of nitryl perchlorate with benzene gave a slight explosion and flash. The solution of permanganic acid (or its explosive anhydride, dimanganese heptoxide) produced by interaction of permanganates and sulfuric acid will explode on contact with benzene. Peroxodisulfuric acid is a very powerful oxidant. Uncontrolled contact with benzene may cause explosion. Mixtures of peroxomonsulfuric acid with benzene explodes.

Section 6: Accidental Release Measures

Small Spill: Absorb with an inert material and put the spilled material in an appropriate waste disposal.

Large Spill:

Flammable liquid. Keep away from heat. Keep away from sources of ignition. Stop leak if without risk. Absorb with DRY earth, sand or other non-combustible material. Do not touch spilled material. Prevent entry into sewers, basements or confined areas; dike if needed. Be careful that the product is not present at a concentration level above TLV. Check TLV on the MSDS and with local authorities.

Section 7: Handling and Storage

Precautions:

Keep locked up.. Keep away from heat. Keep away from sources of ignition. Ground all equipment containing material. Do not ingest. Do not breathe gas/fumes/ vapor/spray. In case of insufficient ventilation, wear suitable respiratory equipment. If ingested, seek medical advice immediately and show the container or the label. Avoid contact with skin and eyes. Keep away from incompatibles such as oxidizing agents, acids.

Storage:

Store in a segregated and approved area. Keep container in a cool, well-ventilated area. Keep container tightly closed and sealed until ready for use. Avoid all possible sources of ignition (spark or flame).

Section 8: Exposure Controls/Personal Protection

Engineering Controls:

Provide exhaust ventilation or other engineering controls to keep the airborne concentrations of vapors below their respective threshold limit value. Ensure that eyewash stations and safety showers are proximal to the work-station location.

Personal Protection:

Splash goggles. Lab coat. Vapor respirator. Be sure to use an approved/certified respirator or equivalent. Gloves.

Personal Protection in Case of a Large Spill:

Splash goggles. Full suit. Vapor respirator. Boots. Gloves. A self contained breathing apparatus should be used to avoid inhalation of the product. Suggested protective clothing might not be sufficient; consult a specialist BEFORE handling this product.

Exposure Limits:

TWA: 0.5 STEL: 2.5 (ppm) from ACGIH (TLV) [United States] TWA: 1.6 STEL: 8 (mg/m3) from ACGIH (TLV) [United States] TWA: 0.1 STEL: 1 from NIOSH TWA: 1 STEL: 5 (ppm) from OSHA (PEL) [United States] TWA: 10 (ppm) from OSHA (PEL) [United States] TWA: 3 (ppm) [United Kingdom (UK)] TWA: 1.6 (mg/m3) [United Kingdom (UK)] TWA: 1 (ppm) [Canada] TWA: 3.2 (mg/m3) [Canada] TWA: 0.5 (ppm) [Canada] Consult local authorities for acceptable exposure limits.

Section 9: Physical and Chemical Properties

Physical state and appearance: Liquid.

Odor:

Aromatic. Gasoline-like, rather pleasant. (Strong.)

Taste: Not available.

Molecular Weight: 78.11 g/mole

Color: Clear Colorless. Colorless to light yellow.

pH (1% soln/water): Not available.

Boiling Point: 80.1 (176.2°F)

Melting Point: 5.5°C (41.9°F)

Critical Temperature: 288.9°C (552°F)

Specific Gravity: 0.8787 @ 15 C (Water = 1)

Vapor Pressure: 10 kPa (@ 20°C)

Vapor Density: 2.8 (Air = 1)

Volatility: Not available.

Odor Threshold: 4.68 ppm

Water/Oil Dist. Coeff.: The product is more soluble in oil; log(oil/water) = 2.1

Ionicity (in Water): Not available.

Dispersion Properties: See solubility in water, diethyl ether, acetone.

Solubility:

Miscible in alcohol, chloroform, carbon disulfide oils, carbon tetrachloride, glacial acetic acid, diethyl ether, acetone. Very slightly soluble in cold water.

Section 10: Stability and Reactivity Data

Stability: The product is stable.

Instability Temperature: Not available.

Conditions of Instability: Heat, ignition sources, incompatibles.

Incompatibility with various substances: Highly reactive with oxidizing agents, acids.

Corrosivity: Non-corrosive in presence of glass.

Special Remarks on Reactivity:

Benzene vapors + chlorine and light causes explosion. Reacts explosively with bromine pentafluoride, chlorine, chlorine trifluoride, diborane, nitric acid, nitryl perchlorate, liquid oxygen, ozone, silver perchlorate. Benzene + pentafluoride and methoxide (from arsenic pentafluoride and potassium methoxide) in trichlorotrifluoroethane causes explosion. Interaction of nitryl perchlorate with benzene gave a slight explosion and flash. The solution of permanganic acid (or its explosive anhydride, dimanganese heptoxide) produced by interaction of permanganates and sulfuric acid will explode on contact with benzene. Peroxodisulfuric acid is a very powerful oxidant. Uncontrolled contact with benzene may cause explosion. Mixtures of peroxomonsulfuric acid with benzene explodes.

Special Remarks on Corrosivity: Not available.

Polymerization: Will not occur.

Section 11: Toxicological Information

Routes of Entry: Absorbed through skin. Dermal contact. Eye contact. Inhalation.

Toxicity to Animals:

WARNING: THE LC50 VALUES HEREUNDER ARE ESTIMATED ON THE BASIS OF A 4-HOUR EXPOSURE. Acute oral toxicity (LD50): 930 mg/kg [Rat]. Acute dermal toxicity (LD50): >9400 mg/kg [Rabbit]. Acute toxicity of the vapor (LC50): 10000 7 hours [Rat].

Chronic Effects on Humans:

CARCINOGENIC EFFECTS: Classified A1 (Confirmed for human.) by ACGIH, 1 (Proven for human.) by IARC. **MUTAGENIC EFFECTS:** Classified POSSIBLE for human. Mutagenic for mammalian somatic cells. Mutagenic for bacteria and/or yeast. **DEVELOPMENTAL TOXICITY:** Classified Reproductive system/toxin/female [POSSIBLE]. Causes damage to the following organs: blood, bone marrow, central nervous system (CNS). May cause damage to the following organs: liver, Urinary System.

Other Toxic Effects on Humans:

Very hazardous in case of inhalation. Hazardous in case of skin contact (irritant, permeator), of ingestion.

Special Remarks on Toxicity to Animals: Not available.

Special Remarks on Chronic Effects on Humans:

May cause adverse reproductive effects (female fertility, Embryotoxic and/or foetotoxic in animal) and birth defects. May affect genetic material (mutagenic). May cause cancer (tumorigenic, leukemia)) Human: passes the placental barrier, detected in maternal milk.

Special Remarks on other Toxic Effects on Humans:

Acute Potential Health Effects: Skin: Causes skin irritation. It can be absorbed through intact skin and affect the liver, blood, metabolism, and urinary system. Eyes: Causes eye irritation. Inhalation: Causes respiratory tract and mucous membrane irritation. Can be absorbed through the lungs. May affect behavior/Central and Peripheral nervous systems (somnolence, muscle weakness, general anesthetic, and other symptoms similar to ingestion), gastrointestinal tract (nausea), blood metabolism, urinary system. Ingestion: May be harmful if swallowed. May cause gastrointestinal tract irritation including vomiting. May affect behavior/Central and Peripheral nervous systems (convulsions, seizures, tremor, irritability, initial CNS stimulation followed by depression, loss of coordination, dizziness, headache, weakness, pallor, flushing), respiration (breathlessness and chest constriction), cardiovascular system, (shallow/rapid pulse), and blood.

Section 12: Ecological Information

Ecotoxicity: Not available.

BOD5 and COD: Not available.

Products of Biodegradation:

Possibly hazardous short term degradation products are not likely. However, long term degradation products may arise.

Toxicity of the Products of Biodegradation: The products of degradation are less toxic than the product itself.

Special Remarks on the Products of Biodegradation: Not available.

Section 13: Disposal Considerations

Waste Disposal:

Waste must be disposed of in accordance with federal, state and local environmental control regulations.

Section 14: Transport Information

DOT Classification: CLASS 3: Flammable liquid.

Identification: : Benzene UNNA: 1114 PG: II

Special Provisions for Transport: Not available.

Section 15: Other Regulatory Information

Federal and State Regulations:

California prop. 65: This product contains the following ingredients for which the State of California has found to cause cancer, birth defects or other reproductive harm, which would require a warning under the statute: Benzene California prop. 65 (no significant risk level): Benzene: 0.007 mg/day (value) California prop. 65: This product contains the following ingredients

for which the State of California has found to cause cancer which would require a warning under the statute: Benzene Connecticut carcinogen reporting list.: Benzene Connecticut hazardous material survey.: Benzene Illinois toxic substances disclosure to employee act: Benzene Illinois chemical safety act: Benzene New York release reporting list: Benzene Rhode Island RTK hazardous substances: Benzene Pennsylvania RTK: Benzene Minnesota: Benzene Michigan critical material: Benzene Massachusetts RTK: Benzene Massachusetts spill list: Benzene New Jersey: Benzene New Jersey spill list: Benzene Louisiana spill reporting: Benzene California Director's list of Hazardous Substances: Benzene TSCA 8(b) inventory: Benzene SARA 313 toxic chemical notification and release reporting: Benzene CERCLA: Hazardous substances.: Benzene: 10 lbs. (4.536 kg)

Other Regulations:

OSHA: Hazardous by definition of Hazard Communication Standard (29 CFR 1910.1200). EINECS: This product is on the European Inventory of Existing Commercial Chemical Substances.

Other Classifications:

WHMIS (Canada):

CLASS B-2: Flammable liquid with a flash point lower than 37.8°C (100°F). CLASS D-2A: Material causing other toxic effects (VERY TOXIC).

DSCL (EEC):

R11- Highly flammable. R22- Harmful if swallowed. R38- Irritating to skin. R41- Risk of serious damage to eyes. R45- May cause cancer. R62- Possible risk of impaired fertility. S2- Keep out of the reach of children. S26- In case of contact with eyes, rinse immediately with plenty of water and seek medical advice. S39- Wear eye/face protection. S46- If swallowed, seek medical advice immediately and show this container or label. S53- Avoid exposure - obtain special instructions before use.

HMIS (U.S.A.):

Health Hazard: 2

Fire Hazard: 3

Reactivity: 0

Personal Protection: h

National Fire Protection Association (U.S.A.):

Health: 2

Flammability: 3

Reactivity: 0

Specific hazard:

Protective Equipment:

Gloves. Lab coat. Vapor respirator. Be sure to use an approved/certified respirator or equivalent. Wear appropriate respirator when ventilation is inadequate. Splash goggles.

Section 16: Other Information

References: Not available.

Other Special Considerations: Not available.

Created: 10/10/2005 08:35 PM

Last Updated: 05/21/2013 12:00 PM

The information above is believed to be accurate and represents the best information currently available to us. However, we make no warranty of merchantability or any other warranty, express or implied, with respect to such information, and we assume no liability resulting from its use. Users should make their own investigations to determine the suitability of the information for their particular purposes. In no event shall ScienceLab.com be liable for any claims, losses, or damages of any third party or for lost profits or any special, indirect, incidental, consequential or exemplary damages, howsoever arising, even if ScienceLab.com has been advised of the possibility of such damages.

To: Bailey, Ethel[Bailey.Ethel@epa.gov]
From: Bodine, Susan
Sent: Tue 11/21/2017 4:14:52 PM
Subject: Fwd: Emailing - ProposedPlanVersion112117DraftFinal.pdf
[ProposedPlanVersion112117DraftFinal.pdf](#)
[ATT00001.htm](#)

Pls print

Sent from my iPhone

Begin forwarded message:

From: "Fonseca, Silvina" <Fonseca.Silvina@epa.gov>
To: "Woolford, James" <Woolford.James@epa.gov>, "Ammon, Doug" <Ammon.Doug@epa.gov>, "Breen, Barry" <Breen.Barry@epa.gov>, "Kelly, Albert" <kelly.albert@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Mackey, Cyndy" <Mackey.Cyndy@epa.gov>, "DeLeon, Rafael" <Deleon.Rafael@epa.gov>, "Kulpan, Bruce" <Kulpan.Bruce@epa.gov>
Cc: "Hilosky, Nick" <Hilosky.Nick@epa.gov>
Subject: Emailing - ProposedPlanVersion112117DraftFinal.pdf

Here is the revised PP, however, **Ex. 5 - Deliberative Process**

Please let me know if you have any questions.

Silvina Fonseca

Special Assistant

Office of the Administrator

U.S. Environmental Protection Agency

Desk: 202.564.1955

Cell: **Ex. 6 - Personal Privacy**

To: Ford, Hayley[ford.hayley@epa.gov]
Cc: Wagner, Kenneth[wagner.kenneth@epa.gov]
From: Bodine, Susan
Sent: Tue 10/24/2017 5:08:38 PM
Subject: Re: Who was on the video conference from Region 8?

Got it

Sent from my iPhone

On Oct 24, 2017, at 1:06 PM, Ford, Hayley <ford.hayley@epa.gov> wrote:

Ok FYI he called Doug Benevento (new R8 RA) immediately following meeting.

Sent from my iPhone

On Oct 24, 2017, at 12:31 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

I did not write down their names.

We were expecting Art Palomares and Stephanie DeJong but I do not know if they were the ones who were on the screen.

From: Ford, Hayley
Sent: Tuesday, October 24, 2017 11:56 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>
Subject: Who was on the video conference from Region 8?

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

To: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Thur 10/26/2017 4:19:50 PM
Subject: Carbon black.docx
[Carbon black.docx](#)

Will see Ryan at the meeting on SF top 10

Would like to give him this.

Any comments?

To: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Mon 11/27/2017 11:09:29 PM
Subject: Enforcement talking points.docx
Enforcement talking points.docx

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Wed 10/4/2017 4:15:10 PM
Subject: RE:

They just called me.

From: Traylor, Patrick
Sent: Wednesday, October 4, 2017 12:12 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: Fwd:

Where would you like to get together for this call?

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

Begin forwarded message:

From: "Dravis, Samantha" <dravis.samantha@epa.gov>
Date: October 4, 2017 at 11:43:35 AM EDT
To: "Traylor, Patrick" <traylor.patrick@epa.gov>

With Pruitt and need to chat with you and Susan.

Can you call me?

Sent from my iPhone

To: Samantha Dravis (dravis.samantha@epa.gov)[dravis.samantha@epa.gov]; Sarah Greenwalt (greenwalt.sarah@epa.gov)[greenwalt.sarah@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
From: Bodine, Susan
Sent: Thur 11/2/2017 7:12:47 PM
Subject: RE: Quick Review Requested - Step 0 draft NPRM

Just spoke to Brittany – **Ex. 5 - Deliberative Process**

Instead of the quoted language below, can we say:

Ex. 5 - Deliberative Process

From: Bodine, Susan
Sent: Thursday, November 2, 2017 12:13 PM
To: Samantha Dravis (dravis.samantha@epa.gov) <dravis.samantha@epa.gov>; Sarah Greenwalt (greenwalt.sarah@epa.gov) <greenwalt.sarah@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: FW: Quick Review Requested - Step 0 draft NPRM
Importance: High

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process We may not need the sentence below – which is in the current draft.

Ex. 5 - Deliberative Process

From: Eisenberg, Mindy

Sent: Thursday, November 2, 2017 11:27 AM

To: Shapiro, Mike <Shapiro.Mike@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Evalenko, Sandy <Evalenko.Sandy@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Goodin, John <Goodin.John@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Massey, Matt <Massey.Matt@epa.gov>; Hewitt, Julie <Hewitt.Julie@epa.gov>; Moyer, Jennifer A CIV USARMY CEHQ (US) <Jennifer.A.Moyer@usace.army.mil>; Jensen, Stacey M CIV USARMY CEHQ (US) <Stacey.M.Jensen@usace.army.mil>; cindy.s.barger <cindy.s.barger.civ@mail.mil>; Schmauder, Craig R SES (US) <craig.r.schmauder.civ@mail.mil>; Lamont, Douglas W SES (US) <douglas.w.lamont2.civ@mail.mil>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>

Subject: Quick Review Requested - Step 0 draft NPRM

Hi All,

Attached is the latest version of the proposal that incorporates DOJ and agencies' staff comments. To continue to expedite this rulemaking, the proposed comment period will be **21 days**. In order to submit it to OP this afternoon for transmission to OMB, I am requesting that you send any comments/edits to Karyn and me by **2:00 today**.

The econ memo for the docket is not ready for review today, so my recommendation is that the Fed Reg notice go to OMB and that we transmit the draft memo after it circulates for review tomorrow.

Thanks,

Mindy

Mindy Eisenberg

Associate Director, Oceans, Wetlands & Communities Division

Office of Wetlands, Oceans and Watersheds

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW, mailcode 4504T

Washington, DC 20460

(202) 566-1290

eisenberg.mindy@epa.gov

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Miles, Erin[Miles.Erin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
From: Bodine, Susan
Sent: Thur 11/16/2017 1:40:21 PM
Subject: new enforcement guidance?

Ex. 5 - Attorney Client

Water Infrastructure

No Fines for Water Utilities Taking Over Failed Systems: EPA

Snapshot

- Water utilities may see fines, enforcement actions dropped after taking over failed systems under EPA initiative
- EPA says the initiative would encourage compliance

By Amena H. Saiyid

Water utilities that take over failing treatment plants to upgrade or maintain infrastructure critical to providing safe water may see enforcement actions and penalties waived by the federal government, the EPA's top water official said Nov. 15.

"We are going to bend over backwards" to halt enforcement actions if utilities take over and assume responsibility for maintenance and operations for failing systems, Dennis L. Forsgren Jr., deputy assistant administrator for the Environmental Protection Agency's Office of Water, told participants at the National Clean Water Law Seminar in Savannah, Ga. However, the EPA's water and enforcement offices are working out the details of how such a policy would work.

Forsgren said utilities are acting as "good Samaritans" by assuming consent decrees to make the needed infrastructure repairs. In exchange, the EPA would waive their fines "as a way to encourage them," he added.

"Our goal is to get to a culture of compliance, and not have to use the heavy hand of enforcement," he said.

The U.S. has more than 800,000 miles of public sewers, and sewers are susceptible to structural failure, blockages, and overflows, according to the American Society of Civil Engineers. An estimated 23,000 to 75,000 sewage overflows occur each year and lead to contamination of waterways with toxic pollution and debris.

The engineers also estimate 240,000 drinking water main breaks occur each year. And many small water systems lack the funds to treat tap water to meet federal standards for arsenic, perchlorate, and lead.

Many utilities of all sizes are under consent decrees or face enforcement actions for failure to reduce overflows from combined sewers that transport both stormwater and wastewater or just sanitary sewer overflows.

'White Knights' Rewarded

The EPA's initiative rewards "white knights" who voluntarily step into help failing wastewater and drinking water plants or systems, said Chris Pomeroy, president of Richmond, Va.-based AquaLaw PLC, which specializes in water law issues.

"That concept is exactly right," Pomeroy told Bloomberg Environment on the sidelines of the law conference. "We should not be in

the business of penalizing good actors who might be willing to come to the rescue of failing systems,” not to mention the public health and environmental benefits that would accrue from such a move.

To contact the reporter on this story: Amena H. Saiyid in Washington at asaiyid@bna.com

To contact the editor responsible for this story: Rachael Daigle at rdaigle@bna.com

To: Bailey, Ethel[Bailey.Ethel@epa.gov]; Benitez-Clark, Rowena[Benitez-Clark.Rowena@epa.gov]
Cc: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Mon 11/13/2017 4:54:08 PM
Subject: RE: General Discussion

Patrick and I now have a 2d meeting with the Administrator that starts at 4:30.

From: Bailey, Ethel
Sent: Monday, November 13, 2017 11:53 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Benitez-Clark, Rowena <benitez-clark.rowena@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: General Discussion

I spoke with DOJ and they are willing to move their call to 4:30 after the meeting with the Administrator. I can reschedule the interview with George Hull. Please let me know.

Thank you,

Ethel

From: Bodine, Susan
Sent: Monday, November 13, 2017 11:41 AM
To: Bailey, Ethel <Bailey.Ethel@epa.gov>; Benitez-Clark, Rowena <benitez-clark.rowena@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: FW: General Discussion

Affects DOJ call as well – if we were going to move it to accommodate the BF Goodrich

briefing.

From: Traylor, Patrick
Sent: Monday, November 13, 2017 11:39 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>
Subject: General Discussion

Larry, Susan and I have both been called away to the Administrator's office at 4:30 today, which will conflict with the scheduled general discussion.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

To: Bolen, Brittany[bolen.brittany@epa.gov]
Cc: Samantha Dravis (dravis.samantha@epa.gov)[dravis.samantha@epa.gov]
From: Bodine, Susan
Sent: Fri 10/27/2017 3:31:25 PM
Subject: FW: WOTUS Definition Policy Direction
Internal Draft WOTUS Definition for Discussion.docx

I think Sarah inadvertently left you off this list.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Greenwalt, Sarah
Sent: Friday, October 27, 2017 11:19 AM
To: Shapiro, Mike <Shapiro.Mike@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Lamont, Douglas W SES (US) <douglas.w.lamont2.civ@mail.mil>; Schmauder, Craig R SES (US) <craig.r.schmauder.civ@mail.mil>; cindy.s.barger <cindy.s.barger.civ@mail.mil>; Goodin, John <Goodin.John@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: WOTUS Definition Policy Direction

All -

Based on the Administrator's policy direction, we have come up with the following draft reg text to use as a starting point for further discussion.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you all for the work that has gone into this project thus far. I am grateful to each of you for your contribution.

Best,

Sarah

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Bodine, Susan
Sent: Wed 10/4/2017 4:09:06 PM
Subject: RE: Smart Sectors

What number?

From: Dravis, Samantha
Sent: Wednesday, October 4, 2017 12:08 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Re: Smart Sectors

Yes of course

Susan can you call us? We are with SP and he has a question

Sent from my iPhone

On Oct 4, 2017, at 11:48 AM, Bodine, Susan <bodine.susan@epa.gov> wrote:

At some point can we talk about how program offices will participate in Smart Sectors?
OECA has an Office of Compliance that works on compliance assistance and is
reinvigorating that function.

<2017-20310.pdf>

To: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Tue 10/24/2017 4:50:14 PM
Subject: 102517- Enforcement Update.docx
102517- Enforcement Update.docx

Draft

To: Fotouhi, David[Fotouhi.David@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]
From: Bodine, Susan
Sent: Wed 11/15/2017 1:41:26 AM
Subject: Fwd: Orange County North Basin -

Sorry we failed to get back to you. Our information (below) is that there was a miscommunication

Ex. 5 - Attorney Client

Sent from my iPhone

Begin forwarded message:

From: "Mackey, Cyndy" <Mackey.Cyndy@epa.gov>
Date: November 9, 2017 at 3:39:17 PM EST
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Kelly, Albert" <kelly.albert@epa.gov>
Cc: "Bodine, Susan" <bodine.susan@epa.gov>, "DeLeon, Rafael" <Deleon.Rafael@epa.gov>, "Patterson, Kenneth" <Patterson.Kenneth@epa.gov>, "Berube, Anne" <berube.anne@epa.gov>, "Maldonado, Lewis" <Maldonado.Lewis@epa.gov>
Subject: FW: Orange County North Basin -

Larry

This message confirms that the Administrator's office does not need to schedule a meeting with the Orange County Water District. As the below message indicates,

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Cyndy Mackey

Director, Office of Site Remediation Enforcement

EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)

1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460

202 564-8206 (Direct Line)

202 564-5110 (Office Line)

202 591-6184(Office Cell)

This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you

From: Maldonado, Lewis

Sent: Wednesday, November 08, 2017 6:50 PM

To: Mackey, Cyndy <Mackey.Cyndy@epa.gov>

Cc: Patterson, Kenneth <Patterson.Kenneth@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Shaffer, Caleb <Shaffer.Caleb@epa.gov>; Lyons, John <Lyons.John@epa.gov>; Washington, Barbara <Washington.Barbara@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Berube, Anne <berube.anne@epa.gov>

Subject: RE: Orange County North Basin

Cyndy – Thanks for the opportunity to speak with you and Ken earlier this week. Following our call, Caleb Shaffer had a call with an Orange County Water District senior manager, Bill Hunt, so that EPA and OCWD could update each other on recent developments. OCWD indicated that their meeting with the Administrator went well and that their primary request that he support the NPL listing as soon as possible was well received.

Ex. 5 - Attorney Client

I wanted you to have this updated information in case there is further discussion at HQ about inviting Northrop to meet with the Administrator at this juncture.

Lewis C. Maldonado
ORC Hazardous Waste Branch Chief
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street (ORC-3)
San Francisco, CA 94105
Phone: (415) 972-3926 Fax: (415) 947-3570

To: Bailey, Ethel[Bailey.Ethel@epa.gov]; Rowena Benitez-Clark (Benitez-Clark.Rowena@epa.gov)[Benitez-Clark.Rowena@epa.gov]
Cc: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Mon 11/13/2017 4:40:51 PM
Subject: FW: General Discussion

Affects DOJ call as well – if we were going to move it to accommodate the BF Goodrich briefing.

From: Traylor, Patrick
Sent: Monday, November 13, 2017 11:39 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>
Subject: General Discussion

Larry, Susan and I have both been called away to the Administrator's office at 4:30 today, which will conflict with the scheduled general discussion.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

To: Bailey, Ethel[Bailey.Ethel@epa.gov]
From: Bodine, Susan
Sent: Fri 9/22/2017 12:49:32 PM
Subject: FW: San Jacinto Briefing
San Jacinto ROD Briefing.FINAL. 09-21-17.pptx
ATT00001.htm

Please print one for Larry and one for me.

From: Edlund, Carl
Sent: Friday, September 22, 2017 7:46 AM
To: Pruitt, Scott <Pruitt.Scott@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Coleman, Sam <Coleman.Sam@epa.gov>
Subject: San Jacinto Briefing

Attached is the final version of this morning's briefing. I will bring hard copies and a thumb drive loaded with the briefing.

Thank you for your input on this presentation yesterday, it is much improved.

Sent from my iPad

Begin forwarded message:

From: "Meyer, John" <Meyer.John@epa.gov>
To: "Edlund, Carl" <Edlund.Carl@epa.gov>
Subject: Presentation without the "or"

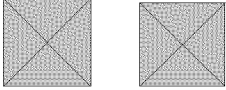
Figured out how to remove it.

John C Meyer

Remedial Branch Chief

Superfund Division

214.665.6742



To: Senn, John[Senn.John@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Sullivan, Greg[Sullivan.Greg@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; King, Carol[King.Carol@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]
From: Bodine, Susan
Sent: Wed 10/4/2017 3:59:01 PM
Subject: RE: R5 press release on East Chicago SEP

I assume the Administrator's office has approved the quote. Is that right?

-----Original Message-----

From: Senn, John
Sent: Wednesday, October 4, 2017 11:55 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; King, Carol <King.Carol@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>
Subject: R5 press release on East Chicago SEP

Region 5 is on track to announce, as early as tomorrow, a SEP that will upgrade lighting and drinking water systems at two East Chicago schools. Let me know if anyone has comments/edits to this draft release.

thanks,
John

Cc: Traylor, Patrick[traylor.patrick@epa.gov]
To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Bodine, Susan
Sent: Wed 11/15/2017 1:34:54 AM
Subject: Fwd: Request for input for pending NYT story

Ex. 5 - Attorney Work Product

Sent from my iPhone

Begin forwarded message:

From: Doug Parker <doug.parker@earthandwatergroup.com>
Date: November 14, 2017 at 7:11:58 PM EST
To: "Bodine, Susan" <bodine.susan@epa.gov>
Cc: "Traylor, Patrick" <traylor.patrick@epa.gov>
Subject: Re: Request for input for pending NYT story

Hello Susan (and Patrick) -

I'd be happy to share my perspective on that era in terms of criminal enforcement numbers. It is likely that the reporter would ask about current numbers, so I'd also likely share my thoughts/hope that numbers increase in this administration.

If you'd like to pass on my cell to the NYT that is fine. Feel free to call as well if you'd prefer to chat further.

Best,

Doug

Doug Parker | **Earth& Water Group**
1455 Pennsylvania Ave., NW, Suite 400, Washington, DC 20004
(202) 280-6362 (o) | Ex. 6 - Personal Privacy (c) | www.earthandwatergroup.com



Earth & Water Strategies LLC

SOLUTIONS FOR BUSINESS AND THE PLANET

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From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Tuesday, November 14, 2017 6:48 PM
To: Doug Parker
Cc: Traylor, Patrick
Subject: FW: Request for input for pending NYT story

Doug,

The NYT is doing a piece on EPA enforcement. We are going to provide them with the stats on the drastic reduction of CID agents from 2010 to 2016 (from 206 to 156).

Would you be willing to provide a quote about the lack of support for criminal enforcement in the last administration? Something along the lines of your exit memo to Cynthia?

In March 2016 you said: "There a wider lack of support for the foundational elements of the criminal enforcement program. ... I make this statement at a time when we are at the fewest number of criminal investigators in roughly two decades, the operational support within OECA (i.e. HR, IT, etc.) has deteriorated dramatically, and the perception of many of your law enforcement officers is that their work and profession is not fully valued by the political leadership of today's EPA."

From: Lipton, Eric [<mailto:lipton@nytimes.com>]
Sent: Monday, November 13, 2017 1:50 PM
To: Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)>

Cc: Ivory, Danielle <danielle.ivory@nytimes.com>
Subject: Request for input for pending NYT story

Hello Liz

Hope you had nice weekend.

I am working with another NYT reporter named Danielle Ivory on a piece that looks at EPA enforcement efforts and how they are changing under the new administration. We very much hope that the EPA will engage with us on this story as we do want your substantive input for this piece.

As part of the story, I would like to arrange an on-the-record interview this week with someone to discuss agency enforcement and how it is proceeding, what types of priorities the new administration might have for enforcement and what trends it is seeing emerge. I also want to get more insight into what the agency means when it discusses "cooperative federalism," in terms of how that will play out with respect to actual implementation of enforcement efforts.

In addition to these broader questions about how the EPA defines its enforcement priorities in the new administration and its focus on cooperative federalism, the story will include a number of additional elements

1) We have assembled our own database from ECHO that examines civil penalties and injunctive relief through administrative and judicial actions in the first nearly nine months of the new leadership at EPA and we have compared this data to similar period of two prior administrations. The data pull is structured so that we look at cases started/allowed to be filed since Feb. 17th through November 9th. We also did this same analysis for Feb. 17 through August 16, which is a six month period. During these two periods, we have pulled data on

++ All civil complaints – administrative or judicial, whether settled or still pending

++ Consent decrees lodged (complaint filed at the same time) whether entered or not

We want like to have a conversation with your enforcement team leader to discuss this data and what you think it says about how enforcement has changed in the new administration.

2) As part of our reporting, we also have been looking at a collection of Notices of Violation, which are often the first step before enforcement action. The nonprofit group, Environmental Integrity Project did a FOIA for NOVs dating back to Jan. 1 2014. We have access to that FOIA response and have been looking at certain individual cases, with a particular focus on cases that have not had any apparent follow up action, based on ECHO or judicial records. Our goal would be to understand where else we should be looking to see evidence of follow up on these matters--perhaps we are missing it--or to understand why there has perhaps not been a resolution yet on these matters. We realize that there are different reasons why there might not be follow up in any particular case, in terms of enforcement.

Happy to discuss this further on the phone. I realize I have not shared the actual data we have pulled or the specific NOVs we are looking at, among the hundreds provided in response to the FOIA.

The goal of this email is to get the conversation started, as we need you input for the story this week. As again, I do hope that we can have a productive conversation for this story.

I can be reached at 202 862 0448

Eric

Eric Lipton



Washington Bureau

202 862 0448 office

Ex. 6 - Personal Privacy

mobile

lipton@nytimes.com

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Patrick Traylor
(traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Wed 11/8/2017 5:08:09 PM
Subject: FW: USSL SF Goals briefing doc 10 31 2017.docx
USSL SF Goals briefing doc 10 31 2017.docx
ATT00001.txt

Ex. 5 - Attorney Client

-----Original Message-----

From: Kaplan, Robert
Sent: Wednesday, November 8, 2017 9:41 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: USSL SF Goals briefing doc 10 31 2017.docx

Hello Susan,

Thanks for the call on East Chicago options. Here is the summary we spoke about. **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

Looking forward to discussing with you further.

Bob

To: Senn, John[Senn.John@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
Cc: Miles, Erin[Miles.Erin@epa.gov]
From: Bodine, Susan
Sent: Tue 10/10/2017 7:01:56 PM
Subject: RE: head's up: NAPA Report to Congress on Affordability

Can you send an electronic version of the final report?

From: Senn, John
Sent: Tuesday, October 10, 2017 2:17 PM
To: Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Cc: Miles, Erin <Miles.Erin@epa.gov>
Subject: FW: head's up: NAPA Report to Congress on Affordability

FYI on this report on affordability that will be released soon—Mark P co-signed a letter to NAPA in August that conveyed our comments on their draft report.

From: Dennis, Allison
Sent: Wednesday, October 4, 2017 3:10 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Senn, John <Senn.John@epa.gov>
Subject: head's up: NAPA Report to Congress on Affordability

All,

The National Academy of Public Administrators (NAPA) will soon be issuing a report to Congress on the topic of affordability. As background, Congress directed EPA in the FY16 Approps to use NAPA to conduct an independent study to create a definition and framework for 'community affordability' and to consider how different localities can effectively fund municipal projects.

We've (OW + OECA) provided NAPA with extensive feedback on the report and generally appreciate their thoughtful recommendations.

We understand NAPA will simply post the report to their website (no press release) and offer briefings on the hill. This could occur *as early as* next week. We are supposed to get a head's up from NAPA on when they plan to release.

This report could generate media inquiries so we prepared a holding statement for your review. Please let me know if you have any edits or questions with the statement or this report. For reference, I attached EPA's cover letter we sent to NAPA that summarized our comments, the draft NAPA report and executive summary, and a backgrounder prepared by the program. Thank you!

-Allison

Holding Statement:

The National Academy of Public Administrators report reflects the complex challenge of providing communities and their residents with clean, affordable water and wastewater services. The agency agrees with many of the recommendations, some of which reflect current EPA practice or policy. We look forward to using this information to help communities and utilities fund their infrastructure needs while ensuring services remain affordable.

To: Theis, Joseph[Theis.Joseph@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Holmes, Carol[Holmes.Carol@epa.gov]; Hindin, David[Hindin.David@epa.gov]; Messina, Edward[Messina.Edward@epa.gov]
From: Bodine, Susan
Sent: Thur 11/9/2017 6:49:48 PM
Subject: RE: Response to SBA re NAHB hearing testimony
Response to NAHB Draft 11-9-17 .docx

Thank you.

Ex. 5 - Attorney Client

See attached edits.

From: Theis, Joseph
Sent: Thursday, November 9, 2017 12:06 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>
Subject: FW: Response to SBA re NAHB hearing testimony

Larry and Susan,

We wanted to share with you the attached draft response given that a portion of it relates to the recent meeting with NAHB on construction stormwater enforcement. On August 28th, the Small Business Administration's Office of the National Ombudsman (SBA ONO) held a National Regulatory Fairness Hearing in Washington, D.C. Per usual, last month the SBA ONO forwarded to us testimony provided at the hearing, and asked that we respond. One portion of the testimony was from the NAHB. Because most of the issues raised involved regulatory, versus

enforcement, concerns, Joan Rogers, who is EPA's Asbestos and Small Business Ombudsman, has the lead on responding to the SBA ONO.

Joan has coordinated with our office, OW, and OCSPP to develop the attached response. It is our understanding that OW and OCSPP senior management cleared their portion of the response. Given the recent meeting with the NAHB, we wanted to ensure that you had the opportunity to review the response as well. Attached is the draft response, as well as the incoming NAHB testimony. The testimony also covered other agencies; the comments on EPA are on pp 6-7 re stormwater, pp 11-13 re Lead RRP, and p18 re WOTUS.

The response is due no later than November 16th (part of the annual grade we get from the SBA ONO each year is based on the timeliness of our responses). Please do not hesitate to contact me, or Carol Holmes of our office (564-8709), if you have any questions.

Thanks,

- Joe

Joseph G. Theis

Acting Deputy Director

Office of Civil Enforcement

Office of Enforcement and Compliance Assurance

U.S. EPA (2243A)

1200 Pennsylvania Ave, NW

Washington, D.C. 20460

(202)564-4053

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.

From: Holmes, Carol

Sent: Thursday, November 09, 2017 9:19 AM

To: Porter, Amy <Porter.Amy@epa.gov>

Cc: Theis, Joseph <Theis.Joseph@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

Subject: RE: Response to SBA re NAHB hearing testimony

Here is a draft email y'all can use, or I am happy to send it also. But if you send it, please cc me and JoanB Rogers:

Thank you, _____

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

Carol S. Holmes
Senior Counsel
Crosscutting Policy Staff

Office of Civil Enforcement (MC 2241A)

U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW

Washington, DC 20460
Phone (202) 564-8709

From: Porter, Amy
Sent: Thursday, November 09, 2017 8:56 AM
To: Holmes, Carol <Holmes.Carol@epa.gov>
Cc: Theis, Joseph <Theis.Joseph@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: Re: Response to SBA re NAHB hearing testimony

Joe - Pls advise on process. Do you want Carol to tee up an email that you can forward to the IO?

On Nov 8, 2017, at 7:43 PM, Holmes, Carol <Holmes.Carol@epa.gov> wrote:

Our responses are from WED and WCED. Joan got the others from OW and OCSPP. We aren't the signatories – Joan Rogers in our small business is, so whomever sends it to Larry/Susan should cc Joan. And it is due next week. Thanks!

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Carol S. Holmes
Senior Counsel
Crosscutting Policy Staff

Office of Civil Enforcement (MC 2241A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW

Washington, DC 20460

Phone (202) 564-8709

From: Theis, Joseph
Sent: Wednesday, November 08, 2017 7:11 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Holmes, Carol <Holmes.Carol@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: Re: Response to SBA re NAHB hearing testimony

Yes, I think Larry and Susan would probably want to review. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Sent from my iPhone

On Nov 8, 2017, at 5:38 PM, Kelley, Rosemarie <Kelley.Rosemarie@epa.gov> wrote:

Joe attended the NAHB meeting, which Susan B organized at the Administrator's request.

Joe – could you look at? Do you think Susan would want to review?

Rosemarie

From: Holmes, Carol
Sent: Wednesday, November 08, 2017 4:21 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>
Cc: Porter, Amy <Porter.Amy@epa.gov>
Subject: FW: Response to SBA re NAHB hearing testimony

Hi Rosemarie and Joe – thoughts? I don't want to lose time if we decide to run this by higher ups.... Thanks!

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

Carol S. Holmes
Senior Counsel
Crosscutting Policy Staff

Office of Civil Enforcement (MC 2241A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW

Washington, DC 20460
Phone (202) 564-8709

From: Holmes, Carol
Sent: Tuesday, November 07, 2017 3:26 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>
Subject: Response to SBA re NAHB hearing testimony

Hello Rosemarie and Joe – as you know, the SBA forwarded to us testimony provided at the August 28 SBA national hearing. One of the testimonies forwarded was from the NAHB. Joan Rogers in our small biz office took the lead on getting responses from OW, OCSP and us since many of the comments were about rules, versus enforcement.

Attached is the draft response, with my edits, as well as the incoming testimony (pp 6-7 re stormwater; pp 11-13 re RRP, 18 re WOTUS). OW and OCSP apparently got their responses cleared

already. The response is due next week.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

draft. I saw that Susan Bodine sent the scheduler on Rosemarie's calendar, but I don't know if she was POC for the entire agency, or just for enforcement participation.

Can you please advise re next steps, especially since you attended the NAHB meeting so have a better idea about the relevant players? Thanks, Carol

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

Carol S. Holmes
Senior Counsel
Crosscutting Policy Staff

Office of Civil Enforcement (MC 2241A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW

Washington, DC 20460
Phone (202) 564-8709

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Bodine, Susan
Sent: Fri 9/29/2017 12:24:44 AM
Subject: Fwd: Map
[ATT00001.htm](#)

I talked to Sam. Can fill you in tomorrow

Sent from my iPhone

Begin forwarded message:

From: "Kelly, Albert" <kelly.albert@epa.gov>
To: "Bodine, Susan" <bodine.susan@epa.gov>, "Davis, Patrick" <davis.patrick@epa.gov>
Subject: FW: Map

Susan and Patrick, attached is an email I sent to Ryan earlier: **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Albert Kelly
Senior Advisor to the Administrator
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202 306 8830

-----Original Message-----

From: Kelly, Albert
Sent: Thursday, September 28, 2017 5:35 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: FW: Map

The attached map shows the testing we did for cap breach at San Jacinto. The black box shows a sampling area that reflected a breach. We test to the level 30 nanograms per kilogram. This tested at 70,000 nanograms per kilogram. **Ex. 5 - Deliberative Process**
Ex. 5 - Deliberative Process David Gray and Nancy/Liz will need to handle the public notification. If you wish to talk with Sam or me, mine is below and Sam's is 214 789 2016.

Albert Kelly
Senior Advisor to the Administrator
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202 306 8830

-----Original Message-----

From: Coleman, Sam

Sent: Thursday, September 28, 2017 5:20 PM

To: Kelly, Albert <kelly.albert@epa.gov>

Subject: FW: Map

Need to talk asap. I will call you.

Samuel Coleman, P.E.

Deputy Regional Administrator

EPA Region 6

coleman.sam@epa.gov

214.665.2100 Ofc

214.665.3110 Direct

214.789.2016 Cell

-----Original Message-----

From: Gray, David

Sent: Thursday, September 28, 2017 4:18 PM

To: Coleman, Sam <Coleman.Sam@epa.gov>

Subject: Map

Sent from my iPhone

Cc: Shiffman, Cari[Shiffman.Cari@epa.gov]; Miles, Erin[Miles.Erin@epa.gov]
To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]
From: Bodine, Susan
Sent: Mon 11/13/2017 4:15:38 PM
Subject: Fwd: DEQ will take additional enforcement action against Chemours for unreported spill

Sent from my iPhone

Begin forwarded message:

From: "Forsgren, Lee" <Forsgren.Lee@epa.gov>
Date: November 13, 2017 at 10:56:09 AM EST
To: "Bodine, Susan" <bodine.susan@epa.gov>, "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>
Subject: Fwd: DEQ will take additional enforcement action against Chemours for unreported spill

FYI

Sent from my iPhone

Begin forwarded message:

From: "Watkins, Tim" <Watkins.Tim@epa.gov>
Date: November 13, 2017 at 10:49:57 AM EST
To: "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Behl, Betsy" <Behl.Betsy@epa.gov>, "Morris, Jeff" <Morris.Jeff@epa.gov>, "Allenbach, Becky" <Allenbach.Becky@epa.gov>, "Buckley, Timothy" <Buckley.Timothy@epa.gov>, "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "McLain, Jennifer" <McLain.Jennifer@epa.gov>, "Burneson, Eric" <Burneson.Eric@epa.gov>, "Orme-Zavaleta, Jennifer" <Orme-Zavaleta.Jennifer@epa.gov>, "vanDrunick, Suzanne" <vanDrunick.Suzanne@epa.gov>, "Penman, Crystal" <Penman.Crystal@epa.gov>, "Forsgren, Lee" <Forsgren.Lee@epa.gov>, "Grevatt, Peter" <Grevatt.Peter@epa.gov>
Subject: FW: DEQ will take additional enforcement action against Chemours for unreported spill

Following up on the string of emails this morning. We received an email from NC DEQ last Friday including a press release. In addition, here is link to a local report.

<http://www.wral.com/testing-reveals-month-old-genx-spill-in-cape-fear-river/17103149/>

It appears as though there was a spill that the facility did not report that most likely explains the results that we reported in the latest report we sent to NC DEQ.

Tim Watkins

Director

National Exposure Research Laboratory

Office of Research and Development

US EPA

(919) 541-5114

Watkins.tim@epa.gov

From: Culpepper, Linda [<mailto:linda.culpepper@ncdenr.gov>]
Sent: Friday, November 10, 2017 10:36 AM
To: Allenbach, Becky <Allenbach.Becky@epa.gov>; Buckley, Timothy <Buckley.Timothy@epa.gov>; Kemker, Carol <Kemker.Carol@epa.gov>; Mitchell, Ken <Mitchell.Ken@epa.gov>; Banister, Beverly <Banister.Beverly@epa.gov>
Subject: Fwd: DEQ will take additional enforcement action against Chemours for unreported spill

Enforcement action will probably be issued early next week.

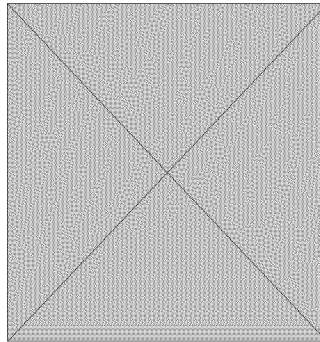
Sent from my iPhone

Begin forwarded message:

Resent-From:
<SRS0=5wUb=CH=prnews2.com=pr.2559318.343576@securence.com>
From: Jamie Kritzer <jamie.kritzer@ncdenr.gov>
Date: November 9, 2017 at 4:24:32 PM EST
To: <linda.culpepper@ncdenr.gov>
Subject: DEQ will take additional enforcement action against Chemours for unreported spill

Governor

Roy Cooper,



Secretary
Michael S. Regan,

Release: IMMEDIATE

Date: NOV. 9, 2017

Contact: Jamie Kritzer

Phone: 919-707-8002; 919-218-5955

DEQ will take additional enforcement action against Chemours for unreported spill

Water sampling indicates wastewater spill at Chemours facility

RALEIGH – The N.C. Department of Environmental Quality will take additional enforcement action against Chemours for an increase in the concentration of GenX in the wastewater discharge at Chemours' Fayetteville Works facility identified in recent water quality sampling results.

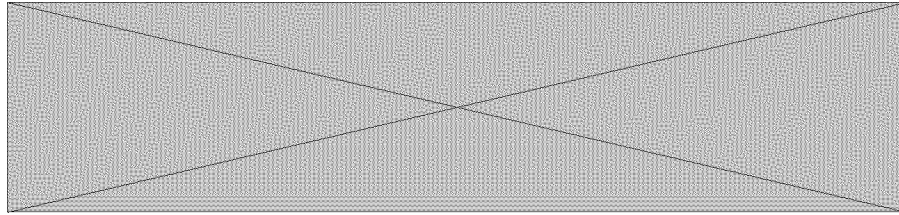
DEQ questioned Chemours officials after receiving preliminary data from the Environmental Protection Agency indicating elevated concentrations of GenX at Chemours' primary wastewater discharge outfall.

In response, the company told DEQ that a spill had occurred Oct. 6 from a manufacturing line at the Chemours facility. The company indicated to state officials that dimer acid fluoride, a precursor to GenX, had spilled during planned maintenance at the facility.

"We are determining all appropriate enforcement actions based on violations that have been committed, and we will continue to investigate and hold the company accountable," said Sheila Holman, assistant secretary for the N.C. Department of Environmental Quality.

At DEQ's request, Chemours officials provided the company's own preliminary test results from water samples collected at the Chemours outfall around the time of the spill. The data show concentrations of GenX at Chemours' wastewater discharge outfall increasing to 250 parts per trillion on Oct. 6, and peaking at 3,700 parts per trillion on Oct. 9. The concentration at the outfall then dropped to 740 parts per trillion on Oct. 12, and 380 parts per trillion on Oct. 16. Prior to the spill, water samples collected between Oct. 2 and Oct. 5 show concentrations of GenX at Chemours' wastewater discharge outfall between 35 and 69 parts per trillion.

###



If you would rather not receive future communications from North Carolina Department of Environmental Quality, let us know by clicking [here](#).
North Carolina Department of Environmental Quality, 217 W. Jones St., Raleigh, North Carolina 27699 United States

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Miles, Erin[Miles.Erin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Tue 10/10/2017 4:24:29 PM
Subject: FW: Alm Room Reservation, 10/24, 10AM-12PM

See below. The Administrator plans to join at 11 am.

From: Wagner, Kenneth
Sent: Tuesday, October 10, 2017 12:14 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Cheatham-Strickland, Latonia <Cheatham-Strickland.Latonia@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Subject: Fwd: Alm Room Reservation, 10/24, 10AM-12PM

Susan

This follows our conversation last Thursday about the stormwater enforcement round table with homebuilders representatives from around the country representing each region. This was set up by Administrator Pruitt and wanted it done asap and November was too late. We need to make arrangements for an enforcement representative from all 10 regions to be there. The meeting is scheduled in the Alm room at 10am-12 on 10/24

Let's discuss at your convenience

Ken

Kenneth E. Wagner

Senior Advisor to the Administrator

For Regional and State Affairs

U S Environmental Protection Agency

202-564-1988 office

Ex. 5 - Deliberative Process **cell**

wagner.kenneth@epa.gov

Begin forwarded message:

From: "Ford, Hayley" <ford.hayley@epa.gov>
Date: October 10, 2017 at 12:07:15 PM EDT
To: "Jenkins, Donna" <Jenkins.Donna@epa.gov>, "Woodward, Cheryl" <Woodward.Cheryl@epa.gov>
Cc: "Wagner, Kenneth" <wagner.kenneth@epa.gov>
Subject: Alm Room Reservation, 10/24, 10AM-12PM

Donna/Cheryl,

Ken Wagner needs to reserve the Alm Room from 10AM to 12PM on 10/24 for a meeting with outside guests. The Administrator will be attending a portion of the meeting. It is entitled the "Home Builders Meeting."

Let me know if you need anything else.

Thank you!

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Wed 10/25/2017 3:53:46 PM
Subject: Fwd: Briefing Paper **Ex. 5 - Attorney Client**
Ex. 5 - Attorney Client Final Paper.docx
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Forsgren, Lee" <Forsgren.Lee@epa.gov>
Date: October 25, 2017 at 9:56:19 AM EDT
To: "Ferguson, Lincoln" <ferguson.lincoln@epa.gov>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Servidio, Cosmo" <Servidio.Cosmo@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Bowman, Liz" <Bowman.Liz@epa.gov>, "Ford, Hayley" <ford.hayley@epa.gov>
Subject: Briefing Paper **Ex. 5 - Attorney Client**

Lincoln,

Here is the briefing paper for this afternoon's meeting on

Ex. 5 - Attorney Client

Lee

D. Lee Forsgren

Deputy Assistant Administrator

Office Of Water

Environmental Protection Agency

1200 Pennsylvania Avenue, VW

Room 3219 WJCE

Washington, DC 20460

Phone: 202-564-5700

Forsgren.Lee@epa.gov

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Mon 9/25/2017 9:50:49 PM
Subject: FW: Disaster/emergency response authority proposal
Discussion draft - emergency variance order 9.25.17 v.3.docx

Ryan, here are two suggestions from OECA.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

-----Original Message-----

From: Fogarty, Johnpc
Sent: Monday, September 25, 2017 3:23 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>
Subject: Disaster/emergency response authority proposal

The attached follows up on the discussion regarding

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Samantha Dravis (dravis.samantha@epa.gov)[dravis.samantha@epa.gov]; Sarah Greenwalt (greenwalt.sarah@epa.gov)[greenwalt.sarah@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
From: Bodine, Susan
Sent: Thur 11/2/2017 4:12:48 PM
Subject: FW: Quick Review Requested - Step 0 draft NPRM
WOTUS date extension draft 11-2-17.docx

Ex. 5 - Attorney Client

that? We may not need the sentence below – which is in the current draft.

Ex. 5 - Attorney Client

From: Eisenberg, Mindy

Sent: Thursday, November 2, 2017 11:27 AM

To: Shapiro, Mike <Shapiro.Mike@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Evalenko, Sandy <Evalenko.Sandy@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Goodin, John <Goodin.John@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Massey, Matt <Massey.Matt@epa.gov>; Hewitt, Julie <Hewitt.Julie@epa.gov>; Moyer, Jennifer A CIV USARMY CEHQ (US) <Jennifer.A.Moyer@usace.army.mil>; Jensen, Stacey M CIV USARMY CEHQ (US) <Stacey.M.Jensen@usace.army.mil>; cindy.s.barger <cindy.s.barger.civ@mail.mil>; Schmauder, Craig R SES (US) <craig.r.schmauder.civ@mail.mil>; Lamont, Douglas W SES (US) <douglas.w.lamont2.civ@mail.mil>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>

Subject: Quick Review Requested - Step 0 draft NPRM

Hi All,

Attached is the latest version of the proposal that incorporates DOJ and agencies' staff comments. To continue to expedite this rulemaking, the proposed comment period will be **21 days**. In order to submit it to OP this afternoon for transmission to OMB, I am requesting that you send any comments/edits to Karyn and me by **2:00 today**.

The econ memo for the docket is not ready for review today, so my recommendation is that the Fed Reg notice go to OMB and that we transmit the draft memo after it circulates for review tomorrow.

Thanks,

Mindy

Mindy Eisenberg

Associate Director, Oceans, Wetlands & Communities Division

Office of Wetlands, Oceans and Watersheds

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW, mailcode 4504T

Washington, DC 20460

(202) 566-1290

eisenberg.mindy@epa.gov

To: Jackson, Ryan[jackson.ryan@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Bodine, Susan
Sent: Wed 11/22/2017 4:53:33 PM
Subject: Fwd: Please be prepared to receive all press calls re: TransCanada spill

See below

Sent from my iPhone

Begin forwarded message:

From: "Traylor, Patrick" <traylor.patrick@epa.gov>
Date: November 22, 2017 at 11:51:38 AM EST
To: "Benevento, Douglas" <benevento.douglas@epa.gov>
Cc: "Bodine, Susan" <bodine.susan@epa.gov>
Subject: RE: Please be prepared to receive all press calls re: TransCanada spill

Thank you. Looping in Susan.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Benevento, Douglas
Sent: Wednesday, November 22, 2017 11:11 AM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Fwd: Please be prepared to receive all press calls re: TransCanada spill

I will call Steve today.

Sent from my iPhone

Begin forwarded message:

Hi Andrew,

It came up in a conversation with Kim McIntosh, in the SD ER program. She said the State might back out entirely and refer oversight of the project and all the press calls to EPA. Apparently, the Director's "head exploded" when he heard we were filing a RCRA order. This may just be a knee-jerk reaction in the heat of the moment, but SD sounded really angry. Whatever decision SD makes, it would be determined at a management level much higher than Kim.

I told Kim that my objective is to observe the cleanup and provide a firsthand account to the office. I stressed that I am coming to support the State's efforts and not with any intent of directing the response.

I wanted to give you a heads up so we are prepared in the event it does happen.

Joyel

Joyel R. Dhieux
Federal On-Scene Coordinator
U.S. Environmental Protection Agency
Ph: 303-312-6647
Cell: 720-441-9961

On Nov 22, 2017, at 7:56 AM, Mutter, Andrew <mutter.andrew@epa.gov>
wrote:

Joyel,

Thanks for the heads up. Do you know who made the comments? That will be helpful when I speak to the comms director.

Best regards,

Andrew

Andrew Mutter

Director, Office of Communication and Public Involvement

U.S. Environmental Protection Agency, Region 8 (Denver, CO)

Office: 303.312.6448

Cell: 720.520.3047

Twitter: @EPARegion8

Facebook: U.S. EPA Region 8

Webpage: EPA Region 8 (Mountains and Plains)

-----Original Message-----

From: Dhieux, Joyel

Sent: Wednesday, November 22, 2017 7:45 AM

To: Mutter, Andrew <mutter.andrew@epa.gov>; Mylott, Richard
<Mylott.Richard@epa.gov>

Cc: Smidinger, Betsy <Smidinger.Betsy@epa.gov>; Williams, Laura
<williams.laura@epa.gov>; Ostrander, David <Ostrander.David@epa.gov>;
Griswold, Hays <Griswold.Hays@epa.gov>

Subject: Please be prepared to receive all press calls re: TransCanada spill

Hi Andrew and Rich,

I spoke with SD DNR this morning regarding my upcoming site visit. I'm not sure whether this is an official decision or just an off-the-cuff remark made in the heat of the discussion, but SD may decide to start referring all press calls and all calls related to the spill to EPA.

I wanted to give you a heads up, if in fact they do. Who should I refer calls to?

Thanks,

Joyel

Joyel R. Dhieux

Federal On-Scene Coordinator

U.S. Environmental Protection Agency

Ph: 303-312-6647

Cell: 720-441-9961

To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Fri 10/27/2017 1:09:32 PM
Subject: RE: Prep for DTE Meeting

North lobby?

From: Gunasekara, Mandy
Sent: Friday, October 27, 2017 9:03 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: RE: Prep for DTE Meeting

Kevin, per your note, I'll plant to meet you and the rest of the team in the downstairs lobby at 9:40 to walk over together.

From: Minoli, Kevin
Sent: Thursday, October 26, 2017 11:30 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: Prep for DTE Meeting

Attorney Work Product & Privileged -- Do NOT Release Under FOIA

Hi Everyone- I am not 100% sure we will all be able to meet ahead of the 10:00 meeting, so wanted to have at least a virtual pre-meet through email.

I spoke with Jeff Woods briefly after a meeting on an unrelated topic earlier today. He

Ex. 5 - Attorney Work Product

Ex. 5 - Attorney Work Product

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8040

Direct Dial: 202-564-5551

To: Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
From: Bodine, Susan
Sent: Wed 10/4/2017 3:48:59 PM
Subject: Smart Sectors
[2017-20310.pdf](#)

At some point can we talk about how program offices will participate in Smart Sectors? OECA has an Office of Compliance that works on compliance assistance and is reinvigorating that function.

UNITED STATES DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

RATE SCHEDULE EE-13¹ **

WHOLESALE RATES FOR EXCESS ENERGY

Effective:

During the period October 1, 2013, through September 30, 2019**, in accordance with Federal Energy Regulatory Commission order issued January 9, 2014, Docket No. EF14-1-000.

Available:

In the marketing area of Southwestern Power Administration (Southwestern), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable:

To electric utilities which, by contract, may purchase Excess Energy from Southwestern.

Character and Conditions of Service:

Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage(s) and at the point(s) of delivery specified by contract.

1.

Wholesale Rates, Terms, and Conditions for Excess Energy

Excess Energy will be furnished at such times and in such amounts as Southwestern determines to be available.

1.1. Transmission and Related Ancillary Services

Transmission service for the delivery of Excess Energy shall be the sole responsibility of such customer purchasing Excess Energy.

1.2. Excess Energy Charge

\$0.0094 per kilowatthour of Excess Energy delivered.

[FR Doc. 2017-20034 Filed 9-25-17; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9968-18-OP]

EPA Smart Sectors Program Launch

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the Smart Sectors program in the Office of Policy. Based on the successful EPA Sector Strategies program, EPA's Smart Sectors program will re-examine how

EPA engages with industry in order to reduce unnecessary regulatory burden, create certainty and predictability, and improve the ability of both EPA and industry to conduct long-term regulatory planning while also protecting the environment and public health.

FOR FURTHER INFORMATION CONTACT:

Daisy Letendre, Senior Advisor for Policy and Strategic Communications, Office of Policy, Office of Administrator, Environmental Protection Agency, Mail Code: 1104A, 1200 Pennsylvania Ave. NW., Washington, DC 200460; telephone number: (202) 564-0410; email address: sectors@epa.gov.

SUPPLEMENTARY INFORMATION:

General Information

EPA has initially identified the following sectors to work with: Aerospace; agriculture; automotive; cement and concrete; chemical manufacturing; construction; electronics and technology; iron and steel; oil and gas; ports and shipping; and utilities and power generation. Sectors were selected based on each sector's potential to improve the environment and public health. EPA welcomes participation from other stakeholders.

The Smart Sectors program will designate staff-level points of contact who are highly knowledgeable about specific industries. These individuals will act as liaisons among industry trade associations and companies, EPA program and regional offices, state and local governments, and other stakeholder groups. The sector liaisons will focus their attention primarily on three main areas: Building relationships and improving customer service to sectors; developing additional expertise in each industry's operations and environmental performance; and informing the planning of future policies, regulations, and Agency processes.

EPA anticipates that participating industries will benefit from coordinated, cooperative, and constructive problem-solving with government. The Agency will invite participating industries to engage in active dialogue and offer their own innovative ideas to reduce environmental impacts. Because industry-wide environmental performance improvement is the goal, EPA will work with trade associations and others to find creative ways to document environmental progress and burden reductions.

Dated: September 14, 2017.

Samantha K. Dravis,

Associate Administrator for Policy.

[FR Doc. 2017-20310 Filed 9-25-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9968-08-OLEM]

Access to Confidential Business Information by Eastern Research Group (ERG)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of access to data and request for comments.

SUMMARY: EPA will authorize its contractor, Eastern Research Group (ERG) to access Confidential Business Information (CBI) which has been submitted to EPA under the authority of all sections of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended. EPA has issued regulations that outline business confidentiality provisions for the Agency and require all EPA Offices that receive information designated by the submitter as CBI to abide by these provisions.

DATES: Access to confidential data submitted to EPA will occur no sooner than October 6, 2017.

FOR FURTHER INFORMATION CONTACT:

LaShan Haynes, Document Control Officer, Office of Resource Conservation and Recovery, (5305P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, 703-605-0516.

SUPPLEMENTARY INFORMATION:

1. Access to Confidential Business Information

Under EPA Contract EP-W-10-055, entitled "Advancing SMM: Waste Facts and Figures and Related Tasks," the Eastern Research Group (ERG) will assist the Office of Resource Conservation and Recovery, Resource Conservation and Sustainability Division in collecting and analyzing municipal solid waste (MSW) information. The contract addresses MSW and other waste such as construction and demolition debris, however, the confidential business information (CBI) only relates to the MSW information collected and analyzed in the contract. The contract period is from August 2017-February 28, 2018. Some of the data collected from industry are claimed by industry to contain trade secrets or CBI. In

¹ Supersedes Rate Schedule EE-11.

**Extended through September 30, 2019 by approval of Rate Order No. SWPA-72 by the Deputy Secretary of Energy.

To: Shiffman, Cari[Shiffman.Cari@epa.gov]
From: Bodine, Susan
Sent: Tue 10/24/2017 4:20:26 PM
Subject: FW: Who was on the video conference from Region 8?

Do you know?

From: Ford, Hayley
Sent: Tuesday, October 24, 2017 11:56 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>
Subject: Who was on the video conference from Region 8?

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

To: Hayley Ford (ford.hayley@epa.gov)[ford.hayley@epa.gov]
From: Bodine, Susan
Sent: Thur 11/2/2017 3:43:54 PM
Subject: FW: NAHB meeting - Thank You
[NAHB Thank You Letter 10.31.2017.pdf](#)

Who should this be directed to? (who handles incoming letters?)

From: Birk, Eva [mailto:EBirk@nahb.org]
Sent: Wednesday, November 1, 2017 3:04 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Mittelholzer, Michael <MMittelholzer@nahb.org>; Asmus, Susan <SAsmus@nahb.org>; Ward, Thomas <TWard@nahb.org>; McDonough, Owen <OMcDonough@nahb.org>
Subject: NAHB meeting - Thank You

All,

Please find attached a thank you letter addressed to Administrator Pruitt for last week's Construction Stormwater Enforcement and Compliance forum.

We sincerely appreciate the time and effort put in by EPA staff to host this dialogue, and look forward to working with your team to address any priority issues the Agency would like to focus on.

For questions on follow-up, please contact me directly at (202) 266-8124.

Kind regards,

Eva



EVA BIRK Program Manager, Environmental Policy
National Association of Home Builders
1201 15th Street, NW | Washington, DC 20005
d: 202.266.8124 e: EBirk@nahb.org w: nahb.org
We Build Communities   

2018 NAHB International Builders' Show

All Homes Start Here! Jan. 9-11, Orlando

This electronic message, including attachments, may include information that is confidential, proprietary and/or legally privileged. It is intended solely for the use of the individual(s) named as recipients in the message. Any unauthorized use, disclosure, copying or distribution is prohibited. If you are not the intended recipient or have received this e-mail in error, please contact the sender by replying to the e-mail and delete all copies of the original message.

October 30, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

On behalf of the National Association of Home Builders (NAHB), I would like to thank you for meeting with us on October 24th to discuss improving the Clean Water Act (CWA) §402 stormwater inspection and enforcement processes. My colleagues and I from all 10 regions were honored that so many EPA staff joined us from around the country to listen to our concerns and work toward solutions. I personally appreciated your results-orientated approach and am hopeful the meeting will serve as a catalyst for action.

NAHB's members are dedicated to taking the steps necessary to achieve compliance with their stormwater management obligations and protect the environment in the communities in which they live and work. As we discussed, however, overly complex requirements, punitive and inconsistent enforcement actions and overlapping authorities have disrupted many of their efforts. Given EPA's role in establishing the baseline permitting requirements, developing federal enforcement policies and directing the tenor of the enforcement and compliance assurance activities that occur across the country, NAHB looks forward to working with the Agency to explore the following solutions that were suggested during our meeting, as well as any others that may arise during subsequent discussions:

- ***Create streamlined permitting option(s) for small sites***
Assess ways to simplify and streamline the Construction General Permit requirements for single lots within larger subdivisions and consider how they may be incorporated into the permit.
- ***Develop a "Find it, Fix it" approach for enforcing permit conditions***
Modify EPA guidance and practice to empower EPA inspectors to focus on education and allow certain violators to correct minor infractions in the field without the risk of subsequent fines.
- ***Clarify enforceability of SWPPP details***
Draft a legal memoranda or other mechanism that outlines how permit requirements are to be enforced to ensure consistency across EPA and the delegated states.
- ***Engage in the Smart Sector Program***
Coordinate efforts between NAHB and other national construction and development trade groups to identify and share industry-wide innovations in compliance.
- ***Participate in Inspector Training***
Arrange for NAHB to speak at EPA's NPDES Technical Inspector Workshop to share the home building industry's suggested best practices for successful inspection visits.

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
October 30, 2017
Page 2

While we recognize that pursuing these solutions will take some time, NAHB is committed to doing what is necessary to achieve results. We are excited about the possibilities and view this dialog as a positive first step for EPA, home builders and the environment. I have directed staff to keep me apprised of the actions being taken to pursue these reforms and to schedule another meeting in early 2018 to review our progress reaffirm our direction. If you have any questions about next steps or follow-up, please contact Ms. Eva Birk, Program Manager, Environmental Policy, at (202) 266-8124.

Best Regards,



Gregory F. Ugalde

cc: Susan Bodine, Senior Advisor for Environment
Ken Wagner, Senior Advisor for Regional and State Affairs
Daisy Letendre, Senior Advisor for Policy and Strategic Communications, Office of Policy
Larry Starfield, Acting Assistant Administrator, Office of Enforcement and Compliance Assurance
Lee Forsgren, Deputy Assistant Administrator, Office of Water

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Tue 10/10/2017 3:19:11 PM
Subject: FW: Final ORG Assessment for Acting AA Approval
FY 2017 org assessment - 10 06 17 draft for Acting AA Review.docx

Just a few formatting suggestions. The most significant being that the first bullet under (2) should be divided into two bullets. (Hurricane response and Superfund Task Force are separate)

From: Hindin, David
Sent: Friday, October 6, 2017 4:13 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; OECA Office Directors and Deputy Directors <OECA_Office_Directors_and_Deputy_Directors@epa.gov>; McKeever, Michele <McKeever.Michele@epa.gov>; Palmer, Daniel <Palmer.Daniel@epa.gov>; Knopes, Christopher <Knopes.Christopher@epa.gov>
Subject: Final ORG Assessment for Acting AA Approval

Larry:

Attached is our final draft of the ORG Assessment. It includes comments from everyone as well as you. We have one Web hit number to confirm on Tuesday, but hopefully this is just about done. This is due on Tuesday, October 10th.

OECA OD/DODs:

Thanks for all your help on this. If you see something that is inaccurate or misleading, do let us know, as sometimes in our attempt to shorten, the meaning can be inadvertently altered. But we are not looking for additional comments.

David A. Hindin

Director, Office of Compliance

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency, Washington, DC 20460

Phone 202-564-1300

**BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION
FOR DEVIATION FROM PERMIT
AND CERTIFICATION REQUIREMENTS
AT POWER PLANT FACILITIES
MADE NECESSARY BY
HURRICANE IRMA**

OGC No. 17-0996

EMERGENCY FINAL ORDER

Under Sections 120.569(2)(n), 252.36, 252.46, and 403.504(12), Florida Statutes, and upon consideration of the State of Florida Executive Order No. 17-235 and the following findings of fact, the State of Florida Department of Environmental Protection (Department) enters this Emergency Final Order (Order), including Findings of Fact and Conclusions of Law, to authorize power plants to deviate from permit and certification requirements in response to the imminent or immediate danger to the public health, safety, and welfare of the citizens of the State of Florida posed by Hurricane Irma (hereinafter "the Hurricane").

FINDINGS OF FACT

1. On September 10, 2017, Hurricane Irma made landfall on the State of Florida.
2. Hurricane Irma is projected to cause catastrophic damage across the full width of the peninsula and eastern panhandle of the state, including damage to electric generating units, electric transmission lines, and the interruption of the transport of fuel and process materials (e.g. ammonia, demineralized water, etc.) to numerous power generation facilities in those

regions.

3. As a result, available power generation facilities in the state of Florida are facing a severe shortage of fuel, process materials, and capacity for the generation of electricity to supply the state's needs.

4. If power plants in Florida are not temporarily authorized to use fuels other than those allowed in permit or certification conditions, or allowed to use fuels and operate available electric generating capacity in a manner that may result in exceedances of permit or certification conditions, this may result in the need to shut down generating facilities needed during the state's emergency response operations and post-storm recovery operations.

5. The shut-down of generating units due to fuel or material shortages has the potential to result in brownouts or blackouts throughout the state or to limit the extent to which available generating capacity can be utilized to address the state's emergency response operations and post-storm recovery operations. Brownouts and blackouts pose an imminent major threat to the health, welfare, and safety of the citizens of Florida.

6. On September 4, 2017, Governor Rick Scott issued Executive Order Number 17-235, declaring a state of emergency in the State of Florida as a result of the impending threat of Hurricane Irma. That Executive Order designates the State Coordinating Officer as the Governor's Authorized Representative for the duration of the emergency.

7. On September 10, 2017, the State Coordinating Officer delegated to the Florida Department of Environmental Protection the authority to issue an

emergency order to the state's electrical power generating facilities, allowing those facilities to exceed certain permit limitations and conditions set forth in their orders of site certification.

CONCLUSIONS OF LAW

1. The Governor has the authority pursuant to Article IV, Section 1(a) of the Florida Constitution, and the Florida Emergency Management Act, Sections 252.31-252.60, Florida Statutes, to declare a state of emergency in the State of Florida, to issue such executive orders as may be necessary to meet the dangers presented to the state and its citizens by emergencies, and to delegate such powers as he may deem prudent. This authority has been delegated to me, as Secretary of the Department of Environmental Protection, pursuant to Executive Order Number 17-235.

2. Section 120.569(2)(n), Florida Statutes, gives the Department the authority to issue an emergency final order if the agency head finds that there is an immediate danger to the public health, safety, or welfare and if the order recites with particularity the facts underlying that conclusion.

3. Based on the findings recited above, I conclude that the emergency created by damage to the state electric generating capacity and the curtailment of fuel or material supplies caused by the impacts from Hurricane Irma requires an immediate order of the Department to protect the public health, safety, and welfare by increasing the availability of electric generating capacity and minimizing the likelihood of brownouts or blackouts or interference with the operation of available electric generating capacity needed during the state's

emergency response operations and post-storm recovery operations.

THEREFORE, IT IS ORDERED:

1. All power plants in the state of Florida that are experiencing shortages of fuel or material supply as a result of the impacts of Hurricane Irma are authorized to deviate from state permit and certification requirements as specified below, as necessary to ensure continued operation.

2. Power plants may only deviate from permit and certification requirements when the occurrence of blackouts or brownouts to Florida citizens is imminent, or the utility foresees fuel depletion such that the potential for brownouts or blackouts exists absent fuel conservation measures, as determined by the utility based on prudent utility practice.

3. Power plants may deviate from permit and certification requirements only if, and only to the extent that:

- a. additional power or fuel switching for conservation purposes is necessary to prevent or limit the potential of blackouts or brownouts or limitation on the extent to which available generating capacity can be utilized to address the state's emergency response operations and post-storm recovery operations;
- b. all existing operable generating units within a utility's fleet are already operating at maximum output in compliance with permit and certification conditions, except as necessary for fuel conservation purposes;

- c. all units continue to be operated in compliance with permit and certification conditions except to the extent necessary to avoid a brownout or blackout or interference with the operation of available electric generating capacity needed during the state's emergency response operations and post-storm recovery operations;
- d. the utility has taken all reasonable measures to return units to service that were inoperable;
- e. additional power is not available by short term purchase or by production by other utility units (regardless of ownership); and
- f. the utility has determined by prudent utility practices that all demand side management options up to but not including interrupting customers have been exercised.

4. Affected power plants meeting the above conditions are authorized to use alternate fuels, to exceed operational time restrictions, to exceed air emissions requirements, to exceed water thermal discharge limits, to exceed effluent limitations, and to deviate from cooling reservoir flow restrictions and pH adjustment, and can invoke the bypass and upset provisions in Rules 62-620.610 (22) and (23), F.A.C., where applicable, to demonstrate that the bypass or upset was unavoidable.

5. Once each potential or discrete blackout or brownout condition has passed, power plants operating pursuant to this Emergency Final Order shall take all reasonable measures to promptly return generating units to

compliance with existing permit conditions or conditions of certification.

6. Utilities operating pursuant to this Emergency Final Order may not provide any power for economic dispatch, except for power currently committed by long term contract executed prior to the date of the issuance of this Emergency Final Order.

7. Utilities operating pursuant to this Emergency Final Order who have purchased fuel to meet the emergency situation described in this Emergency Final Order may use the remainder of that fuel after the emergency situation subsides, and may deviate from permit and certification requirements for such fuels as set forth in this Emergency Final Order until the purchased supplies are exhausted.

8. Power plants operating pursuant to this Emergency Final Order must provide daily reports to the Department. The first report shall be submitted within 24 hours after the commencement of operations that use an alternative fuel or that have other deviations from permit or certification requirements, and shall be submitted daily thereafter until normal operations resume and are reported to the Department. Daily reports must include a description of all deviations from permit or certification requirements, and hourly totals of megawatts generated during the 24-hour period. Reports shall be provided to the Department's Division of Air Resource Management, by U.S. Mail, facsimile, or e-mail. Reports should be directed to Jeff Koerner, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400, telephone number (850) 717-9083, facsimile number (850) 717-9001, email address Jeff.Koerner@dep.state.fl.us.

9. Power plants operating pursuant to this Emergency Final Order shall

operate in compliance with all other conditions of all federal and state permits, certifications, and consent agreements and in compliance with all Florida statutes and rules of the Department.

10. Nothing in this Order provides relief from or shall eliminate the necessity for obtaining any other federal, state or local permit or other authorizations that may be required.

11. This Emergency Final Order shall take effect immediately. It shall expire at 12:01 A.M., Monday, October 2, 2017, unless otherwise modified or extended by order of the Department.

NOTICE OF RIGHTS


Pursuant to Section 120.569(2)(n), Florida Statutes, any party adversely affected by this Emergency Final Order has the right to seek judicial review under section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fee along with the appropriate district court of appeal,. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

~~DON AND ORDERED~~ Filed this day September 20 1997 Tallahassee,
Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Noah Valens Secretary
3900 Commonwealth Blvd
Tallahassee, Florida 32309-3000

FILED on this date, pursuant to
§120.52 Florida Statutes, with the
designated Department Clerk, receipt
of which is hereby acknowledged.


CLERK
DATE: 0 / 2 0 1 9 / 1

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Thur 10/26/2017 3:55:24 PM
Subject: RE:

Yes

-----Original Message-----

From: Traylor, Patrick
Sent: Thursday, October 26, 2017 11:55 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: RE:

I assume you have this?

Patrick Traylor
Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance U.S. Environmental Protection Agency
(202) 564-5238 (office)
(202) 809-8796 (cell)

-----Original Message-----

From: Jackson, Ryan
Sent: Thursday, October 26, 2017 8:18 AM
To: Kelly, Albert <kelly.albert@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>
Subject:

Can we schedule a time soon to talk about too 10 roll out to pitch to SP.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Tue 10/10/2017 2:02:12 PM
Subject: Fwd: Black Flag Disposable Fly Trap
[Region 10 Letter 9-20-17.pdf](#)
[ATT00001.htm](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
To: "Bodine, Susan" <bodine.susan@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>
Subject: FW: Black Flag Disposable Fly Trap

Information I received regarding this stop sale order.

Ex. 5 - Deliberative Process

From: "Gerry Simpson" <GSimpson@rescue.com<mailto:GSimpson@rescue.com>>
To: "Rod Schneidmiller" <RodS@rescue.com<mailto:RodS@rescue.com>>
Cc: "Bob Loomis" <loomis@rescue.com<mailto:loomis@rescue.com>>
Subject: Black Flag Disposable Fly Trap

Rod,

Here are the documents with a brief explanation as follows.

1. Black Flag was issued a stop sell on Aug 29, 2017 by Region 10 because high levels of

Indole, 8 - 11% by weight, were found in their unregistered, disposable fly trap. Indole is a registered active ingredient and any product containing indole must be registered.

2. On Sept 20, Region 10 sent a letter (attached) correcting the indole analysis to 8 - 11 parts per million. This very low level of indole is likely due to normal degradation of the egg powder ingredient.

3. The corrected analysis would likely invalidate the stop sell.

4. However, the Black Flag Disposable Fly Trap is still in violation because it does not qualify for EPA exemption. The closest possible exemption is the food exemption. [40 CFR 152.25(d)]

5. On Dec 14, 2015 Black Flag responded to a California inquiry (attached) concerning the exempt status of the disposable fly trap.

6. In the California response, the ingredients in the fly trap were identified by affidavit as: egg powder, yeast, sodium bicarbonate and sodium lauryl sulfate. The last two ingredients are certainly not food. Sodium bicarbonate is an antacid and produces carbon dioxide once water is added. Carbon dioxide is a fly attractant. Sodium lauryl sulfate is a detergent and works as a drowning aid in the trap. We use sodium lauryl sulfate as an active ingredient in our Fruit Fly Trap.

7. California ended up dropping the matter.

8. We believe California erred. In Black Flag's response, they argue extensively that attractants are not active ingredients and do not require registration. However, this is completely contrary to EPA's position. In fact it is contrary to Black Flag's parent (Spectrum Brands) own history. Spectrum owns the market leading Japanese Beetle trap called Bag-A-Bug. It is 100% attractant based and has been registered for 32 years (1985).

9. EPA has stated that only human foods, and whole foods at that, are eligible for the food exemption. Food ingredients are not exempt. If it was otherwise, all of our products would be exempt from registration.

10. We made the same arguments as Black Flag to Janet Andersen (head of EPA BPPD) back in 2006 and they didn't fly. EPA's position was clear. We had to register attractants whether they were food ingredients or not.

11. California made a decision contrary to EPA's historical position and it is unknown if they consulted with EPA.

12. Region 10 might not understand the registration requirements. They were focused on high indole content which was found to be erroneous. They could drop the enforcement action without realizing the Black Flag trap is not exempt and is in violation.

13. If EPA makes a favorable determination for Black Flag, i.e. attractants, feed ingredients and food ingredients are not active ingredients or fall under the food exemption, then we should cancel all of our pesticide registrations.

Best regards,

Gerry

[Simpson]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

OFFICE OF
COMPLIANCE AND ENFORCEMENT

SEP 20 2017

Reply to: OCE-101

CERTIFIED MAIL — RETURN RECEIPT REQUESTED

Ms. Lauren Myers
Senior Regulatory Manager
Spectrum Brands, Inc.
One Rider Trail Plaza Drive, Suite 300
Earth City, Missouri 63045

Re: **Stop Sale, Use, or Removal Order for the unregistered pesticide product "Black Flag Disposable Fly Trap"**
Docket No. FIFRA-10-2017-0106

Dear Ms. Myers:

Thank you for contacting the U.S. Environmental Protection Agency, Region 10 ("EPA") on September 7, 2017, regarding the above-captioned Stop Sale, Use, or Removal Order ("Order") prohibiting the distribution, sale, or use of the unregistered pesticide product "Black Flag Disposable Fly Trap." I am writing to correct a typographical error in the Order and to discuss next steps.

In particular, Paragraph 23 of the Order states:

23. On January 4, 2017, EPA Region 10 received the analytical results from WSDA CHL. The results showed that all three traps contained Indole (CAS #120-72-9) at concentrations varying between 8.10 and 11.3 **percent by weight**. The results also showed that each trap contained trace amounts of 2-piperidinone (CAS #675-20-7). [Emphasis added.]

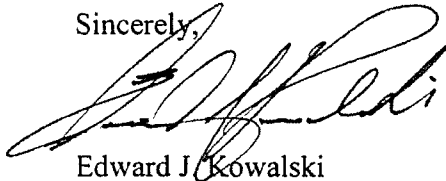
The paragraph should state, "The results showed that all three traps contained Indole (CAS #120-72-9) at concentrations varying between 8.10 and 11.3 **parts per million**." The use of "percent by weight" is a typographical error; EPA evaluated the product's regulatory status based on the analytical results showing 8.10 and 11.3 ppm. The presence of this substance, in addition to the pesticidal claims made on the product labeling, renders this product a pesticide requiring registration.

Please note that the Order applies only to products under Chemsico's ownership, control or custody which are unregistered pesticides. See Paragraph 41 of the Order. Therefore, if Chemsico demonstrates that existing stocks of Black Flag Disposable Fly Trap products do not contain Indole or 2-piperidinone, then the Order would not apply to those products.

During a September 7, 2017, telephone conversation with Chad Schulze of my staff you requested copies of the analytical methods our laboratory used to detect Indole and 2-piperidinone, split samples, photographs of the products collected during a pesticide retail inspection, and batch numbers of the products collected. Last week, Mr. Schulze provided you the analytical methods used by the Washington State Department of Agriculture Chemical and Hop Laboratory and photographs of the product sampled in September 2016. As Mr. Schulze noted during your phone conversation, the batch codes for the products sampled are provided in the Order (see Paragraph 22). Lastly, Mr. Schulze will be shipping split samples of each batch collected this week. Please be sure to sign, date and return the Chain of Custody accompanying the samples. You also expressed to Mr. Schulze and, through counsel, to Brett Dugan, that the presence of Indole in the product may be the result of a degradation process post manufacturing. In this case, testing of new product batches is necessary to establish the absence of Indole in newly manufactured products.

Thank you for your cooperation in this matter and your prompt response once you received the Order. Note that Paragraph 44 of the Order requires a written response within 30 days of receipt of the Order describing the steps Chemsico will take or took to comply with FIFRA, as well as a current inventory of the product subject to the Order. If you have any questions, please contact Mr. Schulze at U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900 (OCE-101), Seattle, Washington 98101, or by email at Schulze.Chad@epa.gov. Mr. Schulze may be reached by telephone at (206) 553-0505. Questions from legal counsel should be directed to Mr. Brett Dugan, Office of Regional Counsel, at (206) 553-8562 or by email at dugan.brett@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "E. J. Kowalski", written over a horizontal line.

Edward J. Kowalski
Director

cc: Mr. Randy Lewis
President
Chemsico, Inc., a Division of United Industries Corporation, LLC

Mr. Paul Dame
Senior Counsel
Lowe's Companies, Inc.

Cc: Fotouhi, David[Fotouhi.David@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
To: Brown, Byron[brown.byron@epa.gov]
From: Bodine, Susan
Sent: Thur 11/9/2017 5:20:34 PM
Subject: Re: WH Meeting on CERCLA 108b Today

Thanks.

A call

Do you want to gather in your office?

Sent from my iPhone

On Nov 9, 2017, at 12:03 PM, Brown, Byron <brown.byron@epa.gov> wrote:

Just forwarded the invite to you.

From: Bodine, Susan
Sent: Thursday, November 9, 2017 12:01 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Fwd: WH Meeting on CERCLA 108b Today

Do you want me in this meeting?

Sent from my iPhone

Begin forwarded message:

From: "Mackey, Cyndy" <Mackey.Cyndy@epa.gov>
Date: November 9, 2017 at 11:58:20 AM EST
To: "Bodine, Susan" <bodine.susan@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>
Subject: WH Meeting on CERCLA 108b Today

Susan

I have heard from Elise Packard that David Fotouhi is participating in a CERCLA 108b meeting with the White House this afternoon (which is why we are rescheduling the special accounts meeting). You may want to consider contacting David to

Ex. 5 - Deliberative Process

Cyndy Mackey

Director, Office of Site Remediation Enforcement

EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)

1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460

202 564-8206 (Direct Line)

202 564-5110 (Office Line)

202 591-6184(Office Cell)

This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you

To: Traylor, Patrick[traylor.patrick@epa.gov]; Brooks, Phillip[Brooks.Phillip@epa.gov]
From: Bodine, Susan
Sent: Wed 12/6/2017 9:57:50 PM
Subject: RE: NSR Memorandum Edits
NSR policy memo draft 2017 12 2 edits (OECA Edits December 6 2017).docx

A few edits.

Ex. 5 - Deliberative Process

From: Traylor, Patrick
Sent: Wednesday, December 6, 2017 4:25 PM
To: Brooks, Phillip <Brooks.Phillip@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: NSR Memorandum Edits
Importance: High

All:

Please find attached my proposed edits to the NSR memorandum. With apologies for the rush, we need to get these over to OAR today.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Patrick

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

Ex. 6 - Personal Privacy (cell)

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Bodine, Susan
Sent: Wed 11/22/2017 4:33:57 PM
Subject: Re: POTUS Memo Ex. 5 - Deliberative Process pdf

What number to call you?

Sent from my iPhone

On Nov 22, 2017, at 11:29 AM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

 Does that make sense?

Sent from my iPhone

On Nov 22, 2017, at 11:18 AM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

On Nov 22, 2017, at 11:02 AM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Can you clarify the first sentence? I'm with SP and want to explain to him.
Thank you Susan!

Sent from my iPhone

On Nov 22, 2017, at 10:46 AM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Ex. 5 - Deliberative Process

They told me last night they may be publicly announcing some results from their investigation today. So far that have only had a desk statement and not a press release

Sent from my iPhone

On Nov 22, 2017, at 9:49 AM, Ferguson, Lincoln
<ferguson.lincoln@epa.gov> wrote:

See below.

-----Original Message-----

From: **Ex. 6 - Administrator**

Sent: Wednesday, November 22, 2017 8:41 AM

To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>

Subject: Re: POTUS Memo **Ex. 5 - Deliberative Process** pdf

Ex. 5 - Deliberative Process

Sent from my iPhone

On Nov 21, 2017, at 6:37 PM, Ferguson, Lincoln
<ferguson.lincoln@epa.gov> wrote:

<POTUS Memo **Ex. 5 - Deliberative Process** pdf>

Sent from my iPhone

To: Bailey, Ethel[Bailey.Ethel@epa.gov]
From: Bodine, Susan
Sent: Mon 10/9/2017 2:36:08 PM
Subject: Fwd: draft NTOC OSRE talking points
[OSRTI Briefing Materials for October 2017 National Tribal Operations Committee.docx](#)
[ATT00001.htm](#)
[Superfund Hot Tribal Sites Update 10417.docx](#)
[ATT00002.htm](#)
[OSRE NTOC Talking Points - 10-11-17.docx](#)
[ATT00003.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Gardner, Monica" <Gardner.Monica@epa.gov>
Date: October 9, 2017 at 10:34:46 AM EDT
To: "Kelly, Albert" <kelly.albert@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Breen, Barry" <Breen.Barry@epa.gov>, "Woolford, James" <Woolford.James@epa.gov>
Cc: "Mackey, Cyndy" <Mackey.Cyndy@epa.gov>, "DeLeon, Rafael" <DeLeon.Rafael@epa.gov>, "Healy, Helena" <Healy.Helena@epa.gov>
Subject: Fw: draft NTOC OSRE talking points

Please find attached Superfund-related talking points for the NTOC meeting this week. Let me know if you have questions.

Thanks,
Monica

From: "Freed, Elisabeth" <Freed.Elisabeth@epa.gov>
Date: October 5, 2017 at 5:14:06 PM EDT
To: "Sander, Matthew" <Sander.Matthew@epa.gov>, "Healy, Helena" <Healy.Helena@epa.gov>, "Gardner, Monica" <Gardner.Monica@epa.gov>
Cc: "Austin, Anthony" <Austin.Anthony@epa.gov>
Subject: draft NTOC OSRE talking points

Hi Everyone,

Attached are two briefing documents prepared by OLEM for the NTOC meeting and one document containing OSRE's draft talking points. OLEM's documents

cover the SF task force initiative and the major tribal SF sites, including enforcement actions, where applicable. Anthony and I tried to provide talking points for areas and issues not covered by OLEM's documents.

Ex. 5 - Deliberative Process

Please let us know if you have any questions or need more information. Once these are approved, Susan O'Keefe would like us to send them to her for inclusion with other OECA talking points.

Peace, Elisabeth

Elisabeth Freed • USEPA/OECA/OSRE/PGB • (202) 564-5117 •
freed.elisabeth@epa.gov •

To: Baptist, Erik[baptist.erik@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Bodine, Susan
Sent: Thur 9/21/2017 8:30:35 PM
Subject: RE: Response to Whitehouse Merkley letter
Dear Senator Whitehouse and Senator Merkley v 4.docx

Revised.

From: Baptist, Erik
Sent: Thursday, September 21, 2017 3:32 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Response to Whitehouse Merkley letter

My quick thoughts are attached.

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

baptist.erik@epa.gov

From: Lyons, Troy
Sent: Thursday, September 21, 2017 3:04 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Subject: Re: Response to Whitehouse Merkley letter

Adding Erik for a quick OGC review.

Troy M. Lyons

Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy (cell)

Sent from my iPhone

On Sep 21, 2017, at 3:01 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Ex. 5 - Deliberative Process

Please note the

Susan

<position description.pdf>

<Dear Senator Whitehouse and Senator Merkley v 3.docx>

<signed pledge.pdf>

<2017 09 13 Susan Bodine_Special Counsel.pdf>

<2017-NSPS-Pruitt-Methane-enforcement.pdf>

To: Forsgren, Lee[Forsgren.Lee@epa.gov]; Samantha Dravis (dravis.samantha@epa.gov)[dravis.samantha@epa.gov]
From: Bodine, Susan
Sent: Mon 10/23/2017 4:22:26 PM
Subject: FW: Final Weekly Report 10.20.2017

See Region 9's original report below and Rob's correction.

From: Tomiak, Robert
Sent: Monday, October 23, 2017 12:07 PM
To: Miles, Erin <Miles.Erin@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: Final Weekly Report 10.20.2017

Erin,

Ex. 5 - Deliberative Process

Thanks, Rob

From: Miles, Erin
Sent: Monday, October 23, 2017 9:08 AM
To: OECA Office Directors and Deputy Directors
<OECA_Office_Directors_and_Deputy_Directors@epa.gov>; Starfield, Lawrence
<Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick
<traylor.patrick@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: FW: Final Weekly Report 10.20.2017

Here are highlights from the Weekly AO report compilation that may be relevant to OECA.
Please take a look at the attachment for more information on these (and other) items.

Region 2:

•■■■■■■■■ **Hurricane Irma/Maria:** EPA now has about 180 personnel on the ground in Puerto Rico and the US Virgin Islands; that number is expected to increase to 400 by early December. We are continuing our mission assignments, including assessment of smaller drinking water systems; coordinating with the Coast Guard on the management of wrecked boats; and planning for the debris management missions that will be ready to commence very shortly. We have received a number of force majeure claims by utilities that have obligations under enforcement instruments that they assert cannot be met at this time, and also from the U.S. Navy with respect to the Vieques Superfund site. We have also received requests for “No Acting Assurances” from a number of entities, including one from a Florida-based company that claims to have 1,000 generators that could be used if some Clean Air Act requirements were relaxed. (EPA has initiated discussions with the PR government to seek the Commonwealth’s views on this proposal.) (OCE, FFEO_

•■■■■■■■■ **Passaic River Lower 8.3 Miles:** We have retained the services of an Allocator to assist the PRPs at this site allocate relative responsibilities. The kick-off meeting among the PRPs and the Allocator was held on 10/13; Ex. 7(a)

Ex. 7(a)

Ex. 7(a)

in a related matter, the Commissioner of the NJ Department of Environmental

Protection wrote to Regional Administrator Lopez regarding the Diamond Alkali (Lister Avenue) Superfund site, requesting that EPA begin the steps needed to select a final remedy for Operable Unit 1 (OU1) of that site to replace the interim remedy completed in 2001. A meeting to discuss NJDEP's request has been scheduled for November 1. (OSRE)

Region 3:

●■■■■■■■■■ **Region 3 and EPA Headquarters Create Action Plan for Pittsburgh Water and Sewer Authority:** Regional Administrator Cosmo Servidio, DRA Cecil Rodrigues and his staff spoke with Peter Grevatt, Lee Forsgren and Ryan Jackson today regarding the continuing concerns associated with the aged and failing infrastructure of the Pittsburgh Water and Sewer Authority. PADEP is currently negotiating a consent order on agreement with PWSA regarding lead and copper rule violations.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

RA Servidio spoke with Secretary McDonnell regarding this and we will continue coordination with both HQ and the State moving forward. (OCE)

●■■■■■■■■■ **Former Used Oil Supervisor Sentenced to a Year and a Day Jail in Delaware for CWA and RCRA Offenses:** A former second-level supervisor of a used oil refinery in Wilmington, Delaware, was sentenced October 12, 2017, to a year and a day in jail for his role in a 20-year conspiracy to violate the CWA by manipulating compliance samples and treatment processes and for causing 500,000 pounds of hazardous waste to be labeled as non-hazardous waste and transported in 27 separate shipments to South Carolina without RCRA manifests. Lance A. Charen, 52, was the branch manager of the facility owned by International Petroleum Corporation (IPC) located at the edge of downtown Wilmington from September 2010, to January 2013. This case was investigated by EPA's Criminal Investigation Division (CID). The City of Wilmington Department of Public Works and the DNREC Solid & Hazardous Waste Management Section assisted in the investigation. The CWA portion of the case was brought to CID by the City of Wilmington (the state does not have delegated pretreatment authority). DNREC notified CID that the hazardous waste shipments had taken place after the search warrant. The state inspector responsible for the facility attended the sentencing. (OCEFT)

Region 4:

●■■■■■■■■■ **Ensystex Stop, Sale, Use or Removal Order (SSURO):** On October 16th, Region 4 vacated the Ensystex SSURO issued on September 28, 2017, based on proper relabeling of products. (OCE)

●■■■■■■■■■ **B.F Goodrich Superfund Site, Calvert City, Kentucky:** On October 18th, the Regional Administrator met with the Potentially Responsible Parties for the B.F Goodrich Superfund Site and the Kentucky Department of Environmental Protection. The Region anticipates

Ex. 5 - Deliberative Process

the Site over the next several weeks. (OSRE)

- ☐☐☐☐☐☐☐☐ **Upcoming travel for the RA:** October 26th – Participation on a roundtable focused on Cooperative Federalism with the American College of Environmental Lawyers. (Larry)

Region 5:

- ☐☐☐☐☐☐☐☐ **Judge Orders Flint Council to Select Water Source by October 23:** On October 17, U.S. District Judge David Lawson instructed the Flint City Council to approve a long-term drinking water source that satisfies EPA's Emergency Administrative Order, as amended, and sign all the requisite agreements to implement that choice on or before October 23, 2017. (OCE)
- ☐☐☐☐☐☐☐☐ **Region 5 Hosts IDEM and Indiana Industry Representatives on October 25:** On October 25, EPA's Chicago office will host its annual meeting with the Indiana Department of Environmental Management leadership and several dozen representatives from Indiana industry. As in past years, EPA and IDEM leadership will kick off the meeting by discussing EPA priorities and core programs. After these opening remarks, EPA and IDEM will open the floor for questions and discussion with the industry representatives. (OC)

Ex. 7(a)

Region 6:

•██████████ **Arkema Inc., Crosby, Texas:** EPA received the additional information requested from Arkema by the October 17th deadline and we are reviewing the information to determine the completeness of the response. (OCE)

•██████████ **Aransas County, Texas:** The request for a No Action Assurance from TCEQ was deemed not necessary after additional discussions with the State. The existing rules have an exception that allows for the burning of woody debris after an emergency. (OCE)

•██████████ **Evangeline Training Center, Carencro, Lafayette Parish, Louisiana:** The Department of Justice filed a complaint on October 19, 2017, in the Western District of Louisiana, alleging violations of the Clean Water Act (CWA) resulting from unauthorized discharges of pollutants into water of the United States. Evangeline Training Center is a large concentrated animal feeding operation (CAFO) located in Carencro, Louisiana that stables or confines about 500 horses for at least 45 days in any 12-month period. This facility has been

Ex. 7(a)

•██████████ **Macy's Retail Holdings, Inc.:** A press release has been prepared to announce EPA's settlement with Macy's Retail Holdings, Inc., (Macy's) over violations of hazardous waste regulations. In addition to correcting violations, Macy's will also develop a program with the capacity to train 400 retailers in Oklahoma and Texas, and conduct third-party audits at 11 of its largest facilities within Texas, Oklahoma, Louisiana and New Mexico, among other required actions. The company will also pay a \$375,000 civil penalty within 30 days of the effective date of the settlement, and must comply with all other requirements within one year. Oklahoma Department of Environmental Quality (ODEQ) Executive Director Scott Thompson said "The Macy's settlement highlights the importance of states and EPA working together on common-sense approaches that respect the needs of businesses, while still protecting public health." EPA and ODEQ will issue the press release within the next few days. (OCE)

•██████████ **Shintech Chemical Company, Plaquemine, Louisiana; Chevron Phillips Chemical, LP – Sweeny located in Sweeny, Texas; Valero Refining Co. – East Plant, Corpus Christi, Texas:** Ex. 7(a)

Ex. 7(a)

Region 7:

•**West Lake Landfill Update:** On October 8, 2017, EPA R7 issued the comment letter to the PRP group on the second draft Final Feasibility Study. The comment letter reflects input from multiple state and federal partner agencies. A revised Final Feasibility Study is due to EPA on December 8, 2017. On October 11, 2017, the Missouri Department of Natural Resources held a public hearing on its proposed stormwater permit. EPA staff from the Water and Superfund Divisions attended the meeting. (OSRE)

Region 8:

•**Region 8 Staff Attending Fountain, Colorado City Council Meeting to Discuss Local Groundwater Contamination:** The City of Fountain, Colorado, requested that Peterson Air Force Base representatives attend a city council meeting on October 24, 2017, to discuss perfluoroalkyl substances (PFAS) groundwater contamination with local officials. In turn, DOD asked staff from Region 8 as well as CDPHE to attend the city council meeting so each agency can answer questions about their respective role. In January 2016, the aquifer that supplies drinking water for approximately 70,000 people in Security, Widefield, Fountain (CO) and the surrounding area was found to be contaminated with PFOS, PFOA, and other PFAS at levels above the EPA health advisories. All impacted customers and homeowners were provided treated water below the health advisories from water systems in the area, or received bottled water from the Air Force by the spring of 2017. Peterson Air Force Base is the only known source of the PFAS contamination.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The public utilities have expended over \$10 million to assure PFAS concentrations of treated water meet the EPA health advisory levels. The Air Force has installed point of use treatment units to homes using private wells. Homeowners will be responsible for maintaining these systems after two years. Participation and talking points have been reviewed and approved by OPA. (FFEO, OCE)

Region 9:

- ☐☐☐☐☐☐☐☐ **American Samoa:** On EPA's behalf, DOJ recently lodged a Consent Decree resolving numerous violations under multiple statutes, including Clean Water Act, EPCRA and CAA, at the Starkist Tuna Processing facility in American Samoa. The settlement included significant injunctive relief to upgrade wastewater treatment and improve facility safety, and a \$6.3 million civil penalty. During the public comment period, American Samoa Gov. Moliga, AS Congresswoman Radewagen, and AS Paramount Chief Mauga Tasi each raised concerns, asking that the \$6.3 million penalty be used to directly benefit the American Samoa populace, and asking for an expanded public comment period (plus documents translated into Samoan). We are

Ex. 5 - Deliberative Process

- ☐☐☐☐☐☐☐☐ **Wetlands permitting:** We advised the Corps of Engineers

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- ☐☐☐☐☐☐☐☐ **Landfill transformed:** An earlier EPA administrative order and technical assistance led to the closure of a major Saipan (No. Marianas) landfill at the coastline. Last week, the Construction Management Association recognized the transformation of the landfill into an urban park with a national award. This park draws recreational visitors daily, in complete contrast to the eyesore and threat it had posed. This was one of the last municipal dumps in the U.S. to close. (OCE)

- ☐☐☐☐☐☐☐☐ **EPA/State training:** We hosted inspector training and certification for our Pacific Island territorial partners, sending expert staff to Guam and Saipan for weeklong training. We partnered with the CA Dept. of Pesticide Regulation to provide agricultural workers training on pesticide use enforcement, reporting and worker safety, and how we interact with and support the State and local County agricultural commissioners. (OC)

Region 10:

- ☐☐☐☐☐☐☐☐ **Release of Environmental Justice and Air Toxics Workshop Report (OR):** The final report from the March 15th Environmental Justice and Air Toxics Workshop in Portland, Oregon is now available online at <https://www.epa.gov/or/environmental-justice-and-air-toxics-blueprint-best-practices-and-resources-healthier-oregon>. The report, "Environmental Justice and Air Toxics: A Blueprint of Best Practices and Resources for A Healthier Oregon," contains a summary, resources and video links, and presentations from the workshop that are intended to help guide and inform community engagement throughout the Cleaner Air Oregon rulemaking process. This workshop was a collaboration between EPA, Neighbors for Clean Air, Portland State University, Multnomah County, Oregon Department of Environmental Quality,

and the Oregon Health Authority. (OEJ)

OCFO:

- ☐☐☐☐☐☐☐☐ Meeting with Chief of Operations on October 20 on proposed approach/timeline for:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

OLEM:

- ☐☐☐☐☐☐☐☐ **Portland Harbor:** We joined Region 10, OECA, and the AO in meeting with PRPs, and are scheduled to do so again tomorrow. (OSRE)

OP:

- ☐☐☐☐☐☐☐☐ **Flint Enforcement Team Meeting:** On October 18, ORD participated in the Flint National Enforcement Team meeting led by Region 5. The purpose of this meeting is

Ex. 7(a)

Ex. 7(a)

From: Carroll, Carly

Sent: Friday, October 20, 2017 5:27 PM

Subject: Final Weekly Report 10.13.2017

Good Afternoon,

Please see the attached final version of this week's report.

Best,

Carly Carroll

Special Assistant to the Acting Deputy Administrator

U.S. Environmental Protection Agency

(202) 564-2769

carroll.carly@epa.gov

To: Shiffman, Cari[Shiffman.Cari@epa.gov]
Cc: Miles, Erin[Miles.Erin@epa.gov]; Patrick Traylor
(traylor.patrick@epa.gov)[traylor.patrick@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Fri 11/3/2017 9:41:10 PM
Subject: FW: Orange County North Basin
A9AN A978 OCNB Internal Briefing 10 23 17 (003).pdf

Cari, can you add this to your follow up list? The genesis was a meeting with the Administrator.

From: Mackey, Cyndy
Sent: Friday, November 3, 2017 5:33 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Patterson, Kenneth
<Patterson.Kenneth@epa.gov>
Cc: DeLeon, Rafael <Deleon.Rafael@epa.gov>; Lammie, Benjamin
<Lammie.Benjamin@epa.gov>; Berube, Anne <berube.anne@epa.gov>; Skaar, Christina
<Skaar.Christina@epa.gov>
Subject: RE: Orange County North Basin

Susan

Attached is a factsheet that OSRE and Region put together about this site. Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Cyndy Mackey

Director, Office of Site Remediation Enforcement

EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)

1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460

202 564-8206 (Direct Line)

202 564-5110 (Office Line)

202 591-6184(Office Cell)

This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you

From: Bodine, Susan
Sent: Friday, November 03, 2017 4:38 PM
To: Patterson, Kenneth <Patterson.Kenneth@epa.gov>
Cc: Mackey, Cyndy <Mackey.Cyndy@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Lammie, Benjamin <Lammie.Benjamin@epa.gov>; Berube, Anne <berube.anne@epa.gov>; Skaar, Christina <Skaar.Christina@epa.gov>
Subject: RE: Orange County North Basin

Any further update on this?
See highlighted language below.

From: Patterson, Kenneth
Sent: Thursday, October 26, 2017 12:20 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Mackey, Cyndy <Mackey.Cyndy@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Lammie, Benjamin <Lammie.Benjamin@epa.gov>; Berube, Anne <berube.anne@epa.gov>; Skaar, Christina <Skaar.Christina@epa.gov>
Subject: Orange County North Basin

Susan,

We are following up on your email below regarding this site. Anne Berube, Acting Branch Chief for Region 9 coordination in OSRE, is on top of this. It was not mentioned as an enforcement matter on the last Regional docket, so we've getting up to speed. We will keep you posted, and if there are any other particular questions you have, let me know.

Ken

From: Berube, Anne
Sent: Thursday, October 26, 2017 11:37 AM
To: Skaar, Christina <Skaar.Christina@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Lammie, Benjamin <Lammie.Benjamin@epa.gov>
Subject: RE: Orange County North Basin

Tina:

Would you mind reaching out to the Region and see if you can find out more about what's going on?

I'm happy to participate or help in any way.

Thanks,

Anne

Anne Berube, Acting Branch Chief, Regions 1, 2, 6 & 9, EPA/OECA/OSRE/RSD, **202-564-4795**

This message is CONFIDENTIAL, and may contain legally privileged information. If you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Skaar, Christina
Sent: Thursday, October 26, 2017 11:35 AM
To: Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Berube, Anne <berube.anne@epa.gov>; Lammie, Benjamin <Lammie.Benjamin@epa.gov>
Subject: RE: Orange County North Basin

Ken,

I am not familiar with this case. It was not discussed at the docket earlier this month.

Tina

Christina (Tina) Skaar

Attorney-Advisor

Office of Site Remediation Enforcement

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Mail code 2272A

Washington, DC 20460

202-564-0895

From: Patterson, Kenneth

Sent: Thursday, October 26, 2017 11:29 AM

To: Berube, Anne <berube.anne@epa.gov>; Lammie, Benjamin
<Lammie.Benjamin@epa.gov>; Skaar, Christina <Skaar.Christina@epa.gov>

Subject: FW: Orange County North Basin

Anne and Tina,

Please see below. Are we familiar with this case and the issues raised? I'd like to get back to Cyndy today if possible.

Ken

From: Mackey, Cyndy

Sent: Wednesday, October 25, 2017 9:54 AM

To: Patterson, Kenneth <Patterson.Kenneth@epa.gov>; DeLeon, Rafael
<Deleon.Rafael@epa.gov>

Subject: FW: Orange County North Basin

Let me know if you are engaging in this matter. Otherwise, I will reach out the region and Kell to see if a meeting is being scheduled and if the region is pursuing interim action. I believe that Enrique is engaged. Thanks.

Cyndy Mackey

Director, Office of Site Remediation Enforcement

EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)

1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460

202 564-8206 (Direct Line)

202 564-5110 (Office Line)

202 591-6184(Office Cell)

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From: Bodine, Susan

Sent: Wednesday, October 18, 2017 2:24 PM

To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>

Subject: Fwd: Orange County North Basin

See below. **Ex. 5 - Attorney Client** Can you follow up with the region on this?

Sent from my iPhone

Begin forwarded message:

From: "Fotouhi, David" <Fotouhi.David@epa.gov>
To: "Kelly, Albert" <kelly.albert@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>
Cc: "Falvo, Nicholas" <falvo.nicholas@epa.gov>, "Ferguson, Lincoln" <ferguson.lincoln@epa.gov>
Subject: Orange County North Basin

Kell, Susan, Patrick,

This morning, the Administrator met with representatives of the Orange County Water District about a site in northern Orange County, California known as the "North Basin" with a large area of groundwater contamination. The Water District entered into the attached agreement with EPA in October 2016 to conduct a remedial investigation and feasibility study to assess the groundwater contamination. The site is not on the NPL, and

Ex. 5 - Attorney Client

Sylvia Quast, Regional Counsel in Region 9, is also familiar with the site and able to assist.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

To: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Wed 10/4/2017 1:27:59 PM
Subject: Colorado Springs.docx
Colorado Springs.docx

This is my summary of the state of play.

To: DeLeon, Rafael[DeLeon.Rafael@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
Cc: Gardner, Monica[Gardner.Monica@epa.gov]; Lammie, Benjamin[Lammie.Benjamin@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]
From: Bodine, Susan
Sent: Tue 11/21/2017 1:43:19 PM
Subject: RE: Goodrich
Overview of the BF Goodrich Proposed Plan.docx

I have Cyndy's email from Sunday with this attachment

-----Original Message-----

From: DeLeon, Rafael
Sent: Tuesday, November 21, 2017 8:39 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Gardner, Monica <Gardner.Monica@epa.gov>; Lammie, Benjamin <Lammie.Benjamin@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>
Subject: FW: Goodrich

Susan/Larry

I understand that there is another briefing for the admin today and that you have both been invited. Do you have everything you need? Thx.

Rafael DeLeon, Esq.
Deputy Director
EPA-Office of Enforcement and Compliance Assurance Office of Site Remediation Enforcement (Mail Code-2271A)
1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460
202 564-5110 (Office Line)
202 564-4899 (Direct Line)
202 302-2761 (Office Cell)

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-----Original Message-----

From: Gardner, Monica
Sent: Monday, November 20, 2017 5:55 PM
To: DeLeon, Rafael <DeLeon.Rafael@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>; Lammie, Benjamin <Lammie.Benjamin@epa.gov>
Subject: Goodrich

I ran into Silvina on the metro platform. She said there is another briefing with the administrator tomorrow on Goodrich. Larry and Susan have been invited. My apologies if you are already aware of it, but I wanted to make sure.

Sent from my iPhone

To: Wagner, Kenneth[wagner.kenneth@epa.gov]
From: Bodine, Susan
Sent: Tue 10/24/2017 1:36:07 PM
Subject: Fwd: Briefing paper for NAHB meeting on Tuesday 10-24
[102417-NAHB Mtg.docx](#)
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
Date: October 23, 2017 at 8:45:57 AM EDT
To: "Ferguson, Lincoln" <ferguson.lincoln@epa.gov>
Cc: "Kenneth Wagner (wagner.kenneth@epa.gov)" <wagner.kenneth@epa.gov>, "Forsgren, Lee" <Forsgren.Lee@epa.gov>, "Patrick Traylor (traylor.patrick@epa.gov)" <traylor.patrick@epa.gov>, "Letendre, Daisy" <letendre.daisy@epa.gov>, "Fotouhi, David" <fotouhi.david@epa.gov>
Subject: Briefing paper for NAHB meeting on Tuesday 10-24

Lincoln, attached is a background briefing paper for tomorrow's meeting with NAHB in the Alm room.

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Bodine, Susan
Sent: Tue 11/28/2017 6:19:23 PM
Subject: Confidential - DOT investigation results and corrective action

I spoke to Matt Kopko, counselor to the DOT Dep Sec.

None of what he told me is public yet.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Bowman, Liz[Bowman.Liz@epa.gov]
Cc: Albert Kelly[Albert Kelly@usepa.onmicrosoft.com]
From: Bodine, Susan
Sent: Sat 10/7/2017 1:23:31 AM
Subject: Re: Portland Harbor Draft AOC; sf deliberative

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Sent from my iPhone

On Oct 6, 2017, at 9:19 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Is there something else we can say? This desk statement doesn't really say anything.

Sent from my iPhone

On Oct 6, 2017, at 7:40 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Opalski, Dan" <Opalski.Dan@epa.gov>
Date: October 6, 2017 at 7:20:16 PM EDT
To: "Woolford, James" <Woolford.James@epa.gov>
Cc: "Breen, Barry" <Breen.Barry@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Mackey, Cyndy" <Mackey.Cyndy@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Kelly, Albert" <kelly.albert@epa.gov>, "Bilbrey, Sheryl" <Bilbrey.Sheryl@epa.gov>, "Patterson, Kenneth" <Patterson.Kenneth@epa.gov>, "Stalcup, Dana" <Stalcup.Dana@epa.gov>
Subject: Re: Portland Harbor Draft AOC; sf deliberative

All:

Here is draft desk statement language our press office just sent to OPA. The scenario is that we get a media call from someone who has, or has heard about, the state's letter. I am happy to convey any suggested modifications. (I also understand we may prefer not to comment at all, but wanted to make sure we were prepared either way.)

“EPA remains committed to meaningfully engaging our state, tribal and federal MOU partners as we implement the Portland Harbor Record of Decision. Their continued involvement, as well as opportunities for participation by the broad range of site stakeholders, will be central to our progress towards achieving human health and environmental protections and supporting the area’s economic vitality.”

from my iPhone

On Oct 6, 2017, at 2:18 PM, Opalski, Dan <Opalski.Dan@epa.gov> wrote:

Further, word we are hearing is that other MOU partners (notably Tribes) may be working on similar letters, and that the City of Portland and the governor’s office are conferring.

I have folks working on a press statement should we want/need to have one to use. I will share a draft when available and of course I presume we will work through OPA.

Sent from my iPhone

On Oct 6, 2017, at 1:16 PM, Woolford, James <Woolford.James@epa.gov> wrote:

For your situational awareness. To Barry’s line of inquiry earlier today.

Jim Woolford, Director

Office of Superfund Remediation and Technology Innovation

Office of Land and Emergency Management

US Environmental Protection Agency

1200 Penn. Ave., NW

Washington, DC 20460

(Mail Code 5201-P)

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Room 5622

One Potomac Yard (South)
2777 S. Crystal Dr.
Arlington, VA 22202

<image004.gif>

From: Sheldrake, Sean
Sent: Friday, October 06, 2017 3:01 PM
To: Woolford, James <Woolford.James@epa.gov>
Cc: Bilbrey, Sheryl <Bilbrey.Sheryl@epa.gov>; Grandinetti, Cami <Grandinetti.Cami@epa.gov>
Subject: FW: Portland Harbor Draft AOC; sf deliberative

Jim, Sheryl, Cami, Fyi—trying to get a PIO assigned as Kevin intimated this memo was releasable and/or might be released. DEQ has assigned a PIO with as needed talking points that we should probably request from them in preparing ours.

Thank you.

S

Sean Sheldrake, Unit Diving Officer, RPM

EPA Region 10, 1200 Sixth Ave., Suite 900; Mailstop DOC-01

Seattle, WA 98101

206.553.1220 desk

206.225.6528 cell

<http://yosemite.epa.gov/r10/cleanup.nsf/sites/ptldharbor>

[<image001.png><image002.png><image003.png>](#)

Over 47 years of scientific diving in support of EPA's mission

From: PARRETT Kevin [<mailto:Kevin.Parrett@state.or.us>]
Sent: Friday, October 06, 2017 9:09 AM
To: brandy.humphreys@grandronde.org; callie@ridolfi.com; Chu Rebecca <Chu.Rebecca@epa.gov>; Scott Coffey <coffeyse@cdmsmith.com>; Sheldrake, Sean <sheldrake.sean@epa.gov>; Courtney Johnson (courtney@crag.org) <courtney@crag.org>; dexb@yakamafish-nsn.gov; DeMaria, Eva <DeMaria.Eva@epa.gov>; Gail Fricano (gfricano@indecon.com) <gfricano@indecon.com>; Genevieve Angle - NOAA-NMFS (Genevieve.Angle@noaa.gov) <Genevieve.Angle@noaa.gov>; Gustavson, Karl <Gustavson.Karl@epa.gov>; Holly Partridge (Holly.Partridge@grandronde.org) <Holly.Partridge@grandronde.org>; Jen Graham <jennifer.graham@ctwsbnr.org>; Jeremy.Buck@fws.gov; jweis@hk-law.com; Knudsen, Laura <Knudsen.Laura@epa.gov>; Kristin Callahan <kristin@ridolfi.com>; Lance Peterson (PetersonLE@cdmsmith.com) <PetersonLE@cdmsmith.com>; Laura Klasner Shira <shil@yakamafish-nsn.gov>; Matt Johnson - JD Law Umatilla rep. (MatthewJohnson@ctuir.org) <MatthewJohnson@ctuir.org>; tosm@yakamafish-nsn.gov; Michael.karnosh@grandronde.org; NaomiStacy@ctuir.org; Rachel DelVecchio (rdelvecchio@indecon.com) <rdelvecchio@indecon.com>; Rita Cabral (rcabral@indecon.com) <rcabral@indecon.com>; Robert Brunoe (robert.brunoe@ctwsbnr.org) <robert.brunoe@ctwsbnr.org>; Robert.Neely@noaa.gov; rose@yakamafish-nsn.gov; Buerger, Ted <ted_buerger@fws.gov>; tomd@ctsi.nsn.us; Grandinetti, Cami <Grandinetti.Cami@epa.gov>; Zhen, Davis <Zhen.Davis@epa.gov>
Cc: MCCLINCY Matt <Matt.MCCLINCY@state.or.us>; SEIDEL Paul <Paul.SEIDEL@state.or.us>; GREENFIELD Sarah <Sarah.GREENFIELD@state.or.us>
Subject: FW: Portland Harbor Draft AOC

Hello Portland Harbor TCT. Attached is the letter that DEQ Director

Richard Whitman sent to Michelle Pirzadeh yesterday expressing DEQ's significant concerns with the draft AOC/Workplan for baseline sampling that the Pre-RD Group has been negotiating with EPA. The letter concludes with a request for EPA to provide DEQ and the TCT adequate time to review and comment on the draft AOC/Workplan. Otherwise, DEQ invokes dispute resolution under the 2001 Portland Harbor MOU.

Please forward this letter to whoever I may have missed in this email.

Kevin Parrett, Manager

NW Region Cleanup Program

Oregon Department of Environmental Quality

700 NE Multnomah Street, Suite 600,

Portland, OR 97232

Office: 503-229-5567

Mobile: 503-997-4313

From: WHITMAN Richard [<mailto:Richard.WHITMAN@state.or.us>]

Sent: Thursday, October 05, 2017 9:03 PM

To: 'Michelle Pirzadeh' <pirzadeh.michelle@epa.gov>

Cc: 'Cyndy Mackey' <mackey.cyndy@epa.gov>; 'Jim Woolford' <woolford.james@epa.gov>; 'Sheryl Bilbrey' <bilbrey.sheryl@epa.gov>; 'Davis Zhen' <Zhen.Davis@epa.gov>; 'PARRETT Kevin' <kevin.parrett@state.or.us>

Subject: Portland Harbor Draft AOC

Michelle: Please find attached a letter from Oregon DEQ expressing our significant concerns with the current draft AOC and work plan being negotiated for pre-remedial design and baseline sampling for Portland Harbor. As noted in the letter, we look forward to resolving these concerns as quickly as possible given our mutual desire to move forward with implementation of the Portland Harbor Superfund Record of Decision.

Richard Whitman

Director

Oregon Dept. of Environmental Quality

<10-5-2017 Letter to Acting Region 10 Administrator Pirzadeh.pdf>

To: Baptist, Erik[baptist.erik@epa.gov]
From: Bodine, Susan
Sent: Thur 9/21/2017 7:06:08 PM
Subject: Fwd: Response to Whitehouse Merkley letter
[position description.pdf](#)
[ATT00001.htm](#)
[Dear Senator Whitehouse and Senator Merkley v 3.docx](#)
[ATT00002.htm](#)
[signed pledge.pdf](#)
[ATT00003.htm](#)
[2017 09 13 Susan Bodine Special Counsel.pdf](#)
[ATT00004.htm](#)
[2017-NSPS-Pruitt-Methane-enforcement.pdf](#)
[ATT00005.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
To: "Lyons, Troy" <lyons.troy@epa.gov>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Response to Whitehouse Merkley letter

Ex. 5 - Deliberative Process

Please note the

Susan

United States Senate

WASHINGTON, DC 20510

September 13, 2017

Susan Bodine
Special Counsel to the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Bodine:

It has come to our attention that you have recently been appointed to the position of “special counsel to the administrator on compliance” at the Environmental Protection Agency (EPA) while your nomination to serve as EPA’s Assistant Administrator of the Office of Enforcement and Compliance Assistance (OECA AA) remains under consideration by the Senate. This appointment raises several concerns that we request you address before we can consent to any time agreement to process your nomination.

1. Your appointment as special counsel

The Federal Vacancies Reform Act of 1998 provides, with limited exceptions, the “exclusive means for temporarily authorizing an acting official to perform the functions and duties of any office of an Executive agency ... for which appointment is required to be made by the President, by and with the advice and consent of the Senate....” 5 U.S.C. § 3347. Further, as the Supreme Court held in *Buckley v. Valeo*, “any appointee exercising significant authority pursuant to the laws of the United States is an ‘Officer of the United States,’ and must, therefore, be appointed in the manner prescribed” in Article II, Section 2, clause 2 of the Constitution. 424 U.S. 1, 126 (1976). Accordingly, it would be unlawful for you to assume any of the delegated authorities of the OECA AA before the Senate confirms your nomination while serving as “special counsel.”

Your appointment creates the appearance, and perhaps the effect, of circumventing the Senate’s constitutional advice and consent responsibility for the position to which you have been nominated. Your improper involvement in EPA enforcement decisions could provide grounds for subjects of EPA actions to challenge the legal validity of those actions in court.¹ To ensure your appointment is not violating the Federal Vacancies Reform Act of 1998, please respond to the following:

- What is your official job title and type of appointment (e.g., non-career SES, Schedule C, administratively-determined)? Who, if anyone, are you supervising? What is your relationship with the Acting OECA AA? If you have a written job description, please provide a copy.

¹ See, e.g., *National Labor Relations Board v. SW General*, 137 S.Ct. 929 (2017) (Vacating an NLRB unfair labor practices complaint because the NLRB general counsel at the time had been appointed in violation of the Federal Vacancies Reform Act).

- Have any duties of the OECA AA been formally delegated to you by the Administrator? Which, if any, OECA AA duties have you or are you presently performing?
- During your confirmation process, you entered into an ethics agreement that was approved by both EPA and the Office of Government Ethics and presented to this Committee. Are you governed by the same ethics agreement in your current position? Please provide a copy of the signed Trump ethics pledge, and copies of any waivers to the pledge or recusal statements.
- You committed to notifying the Committee of all of your EPA email addresses “within seven days of using a new email address, including any aliases or pseudonyms.” Please provide all email addresses you have used since starting at EPA and any new ones within seven days of their use.
- You also committed to “conducting all business using official email addresses and other means and to refrain from any mediums that are outside the Freedom of Information Act’s reach.” Do you commit to do the same pre-confirmation?
- During previous administrations, senior EPA managers’ schedules have been available to the public. Given your extensive work with industries regulated by EPA in the past, will you make your schedule available?

2. Enforcement of the New Source Performance Standard (NSPS) methane oil and gas rule

Several Senators recently wrote to Administrator Pruitt about his continued attempts to undermine the New Source Performance Standard (NSPS) methane oil and gas rule. The letter referenced an email released by EPA stating it would enforce the methane rule on a “case by case” basis. EPA’s recent comments about enforcement on a “case by case” basis appear to be a “no action assurance” which can only be issued by the Office of Enforcement and Compliance Assurance Acting Administrator through a written finding.

Now that you are advising the Administrator on compliance issues, you are in a position to answer questions about this policy, the answers to which are important to the Senate’s consideration of your nomination.

- Is it your understanding that EPA will enforce the methane rule on a case-by-case basis? If so, were you involved in the formulation this policy? Please explain how EPA’s case-by-case approach to compliance with the Methane Rule is consistent with EPA’s “No Action Assurance” policy, which dates back to 1984.
- Please provide any written guidance that you have authored or reviewed concerning enforcement of the Methane Rule.
- During your confirmation hearing, you committed to “enforce all regulations that are in effect.” Do you believe EPA’s “No Action Assurance” should continue to be a basis for EPA’s enforcement policy? If not, please explain why.
- Which states have been delegated enforcement authority over the Methane Rule? What oversight and/or assistance will EPA provide these states to ensure that regulated entities are complying with the rule?

- What types of reports and notifications will EPA require states with delegated enforcement authority to submit to the agency to ensure that the states are enforcing the rule?

3. Questions for the record

You declined to answer several questions for the record from members of the Environment and Public Works Committee due to lack of familiarity with the issue or EPA's perspective on it as a nominee. Consistent with your commitment to seek briefings on these issues, we expect that now that you are "special counsel to the administrator on compliance" you have familiarized yourself with these issues and that EPA policies and practices sufficiently to answer the questions we previously asked. We restate those questions and your answers below, and request that you amend your answers to reflect your new position.

1) EPA recently developed the agency's EJ2020 action Agenda to better deliver on its historical promises of reducing disparities in environmental protection. Will you utilize and uphold this guidance and procedures outlined in this document throughout the work of your office? Please explain.

I am not familiar with EPA's EJ2020 action agenda. If confirmed, I will seek a briefing on this guidance.

2) In EPA's environmental justice strategic plan for 2016-2020, OECA is identified as the program leading environmental justice compliance and enforcement. The following strategies in the plan are below. If confirmed, will you commit to implementing each of these strategies in your leadership of the office? If not, why?

- a. Direct more EPA enforcement resources to the most overburdened communities;
- b. work with federal, state, tribal, and local co-regulatory partners to pursue vigorous enforcement for violations in overburdened communities and leverage limited compliance resources by improving joint planning and targeting of enforcement activities; and
- c. strengthen communication so enforcement cases can benefit from the knowledge of local communities, and empower communities with information about pollution and violations that affect them.

I am not familiar with the environmental justice strategic plan for 2016-2020. If I am confirmed I will seek a briefing on it. As I stated above, I agree that communication is important.

3) Are you aware of criticism—including a 2016 United States Commission on Civil Rights report—that EPA has historically done a poor job of enforcing Title VI? Do you agree or disagree? If you agree, what changes would you make? If you disagree, what evidence suggests to you that environmental justice enforcement has been adequate?

I am not familiar with that report. If I am confirmed I will seek a briefing on this issue. As I noted above, in December 2016, EPA reorganized the functions of the formerly Office of Civil Rights (OCR) with respect to its External Compliance and Complaints Program. This external civil rights enforcement function now resides organizationally within the External Civil Rights Compliance Office, which is located in EPA's Office of General Counsel.

4) Early feedback from states, tribes, and associations to the Office of Enforcement and Compliance Assurance's FY2018-2019 National Program Managers Guidance includes a call for the EPA to further "streamline the process for states to gain approval of Alternative Compliance Monitoring Strategies that include allowances for different inspection frequencies and alternative monitoring approaches and to explicitly recognize in the National Program Managers Guidance opportunities for states to use ACMSs."

- a. How can OECA streamline the process for allowing states to use ACMSs under the CAA, CWA, and RCRA?
- b. How will EPA ensure the ACMSs are meeting overarching enforcement and compliance goals?

I am not familiar with the issues that states, tribes, and associations are raising in their comments. If confirmed, I will request a briefing on these issues.

5) Under your leadership, will you push for greater inclusion of technology-based tools for compliance monitoring and implementation, including electronic reporting and additional air or water quality monitors?

If confirmed, I will request a briefing on "Next Generation" compliance tools.

6) What is the role of Regional Administrators in bringing enforcement actions against polluters? **It is my understanding that EPA Regional Administrators have been delegated significant authority for certain actions. If I am confirmed, I will seek a briefing to fully understand the OECA delegations of authority.**

7) On June 5, Attorney General Sessions circulated a memo to all component heads and United States Attorneys barring DOJ attorneys from "enter[ing] into any agreement on behalf of the United States in settlement of federal claims or charges, including agreements settling civil litigation, accepting plea agreements, or deferring or declining prosecution in a criminal matter, that directs or provides for a payment or loan to any non-governmental person or entity that is not a party to the dispute" with limited exceptions.

- Do you interpret Attorney General Sessions' memo to prohibit payments to states, tribes, or local governments as part of a settlement, plea agreement, or other such arrangement? **With three exceptions, the memo prohibits payments to non-party, non-governmental entities. Thus, it does not appear to apply to payments to governmental entities. If I am confirmed, I will seek a briefing on the intended effect of this memo.**
- Do you interpret Attorney General Sessions' memo to prohibit settlement from including provisions like the \$2 billion for zero emission vehicle development and \$2.7 billion in a trust for states to undertake projects that reduce emissions from vehicles in the VW settlement?
If I am confirmed, I will seek a briefing on the intended effect of this memo.
- In your experience, do you feel settlement funds in environmental cases have gone to "bankroll third-party special interest groups or the political friends of whoever is in

power” as Attorney General Sessions stated in the press release accompanying his June 7 memo? If so, please provide examples that illustrate your concerns.

If I am confirmed, I will seek a briefing on the actions that this memo is intended to preclude.

- Will you revise or eliminate OECA’s Supplemental Environmental Projects Policy to align with Attorney General Sessions’ prohibition on third party payments?

I believe that OECA’s SEPs policy already conforms to the June 7 memo because it already precludes third party payments. If I am confirmed, I will seek a briefing on the actions that this memo is intended to preclude.

8) Do you believe all covered water systems should follow EPA’s drinking water analytical methods when testing drinking water for contamination? If so, what efforts will you undertake to ensure all water systems are brought into compliance?

I am not familiar with the issue raised in this question. If I am confirmed, I will seek a briefing on it.

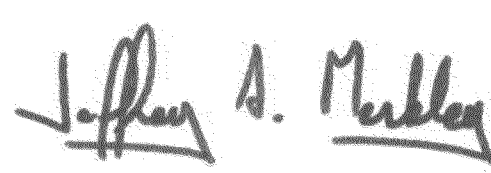
9) Rhode Island ozone air quality issues are largely due to transported emissions from upwind states leading to ozone formation that pollutes the air and lungs of people in downwind states like mine. The Rhode Island Department of Environmental Management reports that there remain a number of power plants located in upwind states that have pollution control equipment installed to reduce nitrogen oxides emissions that either do not use that equipment during the ozone season or do not use it in a way that optimizes the reduction of nitrogen oxides emissions. Why would this be the case?

I do not know. If confirmed, I will request a briefing on this issue.

You stated that “Congressional oversight is very important,” that “you have deep respect for the oversight responsibility of Congress,” and that your “bias would always be to respond to any Member of Congress, whether the majority or the minority, and certainly would not see that there would be any change in practice from EPA.” Now that you are an employee of EPA, we expect you will act on that philosophy. We look forward to your prompt response as it will help inform how we engage with your nomination.

Sincerely,


Sheldon Whitehouse
United States Senator


Jeffrey A. Merkley
United States Senator

Cc: Senator John Barrasso, Chairman, Environment and Public Works Committee
Senator Thomas Carper, Ranking Member, Environment and Public Works Committee

United States Senate

WASHINGTON, DC 20510

September 7, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

We write concerning the Environmental Protection Agency's (EPA's) enforcement of the New Source Performance Standard (NSPS) methane oil and gas rule ("Methane Rule").¹ Recently, *E&E News* reported that EPA would enforce the Methane Rule on a "case by case" basis,² which appears to represent a sharp break from the enforcement practices and policies that EPA has applied for many years under both Republican and Democratic administrations. Specifically, the statement suggests to both industry and the public that EPA will not take a comprehensive approach to enforcing the requirements of the rule. At the same time, the agency has not followed its long-standing No Action Assurance policy requiring that the Assistant Administrator of the Office of Enforcement and Compliance Assurance (OECA) establish well-substantiated findings and well-reasoned justifications for taking no enforcement action with respect to those requirements. As a result, the statement may signal an attempt to circumvent the ruling and mandate of the D.C. Circuit Court of Appeals, which specifically reinstated a June, 2017 compliance deadline for certain Methane Rule requirements.

The Methane Rule was finalized in 2016 after EPA sought input from states, tribes, industry, and environmental groups, reviewed more than 9,000 public comments, and conducted several public hearings. In addition to setting emissions control standards for methane when key pieces of equipment are installed or replaced at oil and gas production and transmission sites, the rule also mandated that operators implement programs to detect equipment leaks and repair them. It is well documented that the benefits of the rule exceed compliance costs by hundreds of millions dollars.³ In April of this year, EPA granted an industry petition to reconsider this rule. On June 5, EPA put in place a 90-day stay on certain aspects of the Methane Rule retroactive to June 2, the day before the rule required regulated parties to have concluded initial monitoring for

¹ Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources <https://www.federalregister.gov/documents/2016/06/03/2016-11971/oil-and-natural-gas-sector-emission-standards-for-new-reconstructed-and-modified-sources>

² With Obama EPA rule in force, compliance clash may loom. <https://www.eenews.net/stories/1060059016>

³ EPA releases first-ever standards to cut methane emissions from the oil and gas sector. <https://www.epa.gov/newsreleases/epa-releases-first-ever-standards-cut-methane-emissions-oil-and-gas-sector>

methane leaks and begin repairs. The United States Court of Appeals for the District of Columbia rejected EPA's stay, concluding that this action was "arbitrary and capricious" because EPA and petitioners had not established that it was impracticable for opponents of the rule to have raised their concerns during the public comment period. *Clean Air Council, et al. v. E. Scott Pruitt*, No. 17-1145 (D.C. Cir. July 3, 2017). On August 10, the full court rejected requests to rehear the case *en banc*.

With EPA's efforts to immediately halt enforcement of the Methane Rule rebuffed by the courts, its announcement that enforcement will now proceed on a "case by case basis" suggests that EPA will attempt to accomplish by an *ad hoc* enforcement approach what it could not accomplish through its unlawful stay. We appreciate that EPA, as with any agency with enforcement powers, enjoys discretion as to what cases to bring. But EPA has recognized that statements not to enforce the law or regulations "may erode the credibility of EPA's enforcement program" and undermine the agency's credibility, which is "vital as a continuing incentive for regulated parties to comply with environmental protection requirements."⁴ EPA's policy against so-called "No Action Assurances" has been in place since 1984. It requires that exceptions only be granted with the concurrence of the Assistant Administrator for Compliance and Enforcement Monitoring and be documented with justifying reasons in each case file.

Under your tenure, EPA has done an about-face on the need to regulate methane emissions, rejecting the conclusions of a careful and inclusive rulemaking process, apparently at the behest of a few regulated industries that already had the opportunity to provide comments during the rulemaking. These actions elevate the concerns of industry over the documented environmental and public health benefits of reducing methane leakage and may have the further effect of "erod[ing] the credibility of EPA's enforcement program," which Administrators of both parties have long fought to maintain. To permit us to determine whether these concerns are valid, please provide answers and documents responsive to the following questions:


- What standards are being used to determine EPA's "case by case" enforcement of the Methane Rule? Please provide us copies of all written guidance related to enforcement of this rule.
- Does the 1984 policy addressing "No Action Assurances" remain in full effect? If so, please explain how EPA's "case-by-case" approach to compliance with the Methane Rule is consistent with EPA's 1984 policy. If not, please provide a copy of EPA's new enforcement policy, and how it applies to the Methane Rule.
- If EPA has issued a No Action Assurance for the Methane Rule, please provide the documentation of the justifying reasons as required by the 1984 No Action Assurances Policy.

⁴ EPA Memorandum, "Policy Against No Action Assurances," Courtney M. Price, Assistant Administrator for Compliance and Enforcement Monitoring, Nov. 16, 1984.


- Which states have been delegated enforcement authority over the Methane Rule? What oversight and/or assistance will EPA provide these states to ensure that regulated entities are complying with the rule?
- What types of reports and notifications will EPA require states with delegated enforcement authority to submit to the agency to ensure that the states are enforcing the rule?

We would appreciate a response no later than September 28.

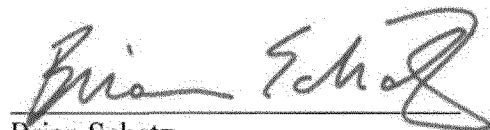
Sincerely,




Sheldon Whitehouse
United States Senator



Thomas R. Carper
United States Senator




Brian Schatz
United States Senator



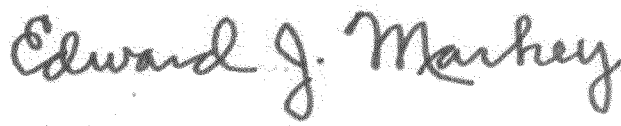
Cory A. Booker
United States Senator




Al Franken
United States Senator



Michael F. Bennet
United States Senator



Edward J. Markey
United States Senator



Tom Udall
United States Senator

SENIOR ADVISOR TO THE ADMINISTRATOR
ES-0301-00

This position is located in the Immediate Office of the Administrator (AO). The incumbent serves as a Senior Advisor to the Administrator by performing a wide range of sensitive, complex assignments which are sensitive enough to require the attention of the Administrator.

1. Serves as Senior Advisor to the Administrator. Provides informal advice concerning internal and external Agency policy efforts, receives internal policy briefings, and becomes familiar with relevant broad Agency policy issues.
2. Renders informal advice to identify and analyze emerging legislation and regulatory issues of interest to the Administrator. Maintains a continuing awareness of regulations and the policies and programs supported by the Administration and the Congress.
3. Keeps abreast of new developments within and outside the Federal sector pertaining to assigned areas of expertise and provides informal advice to the Administrator on strategies to accommodate such developments.

SUPERVISORY CONTROLS

Receives broad general direction and policy guidance from the Administrator.



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Susan P. Bodine
Signature

9/21, 2017
Date

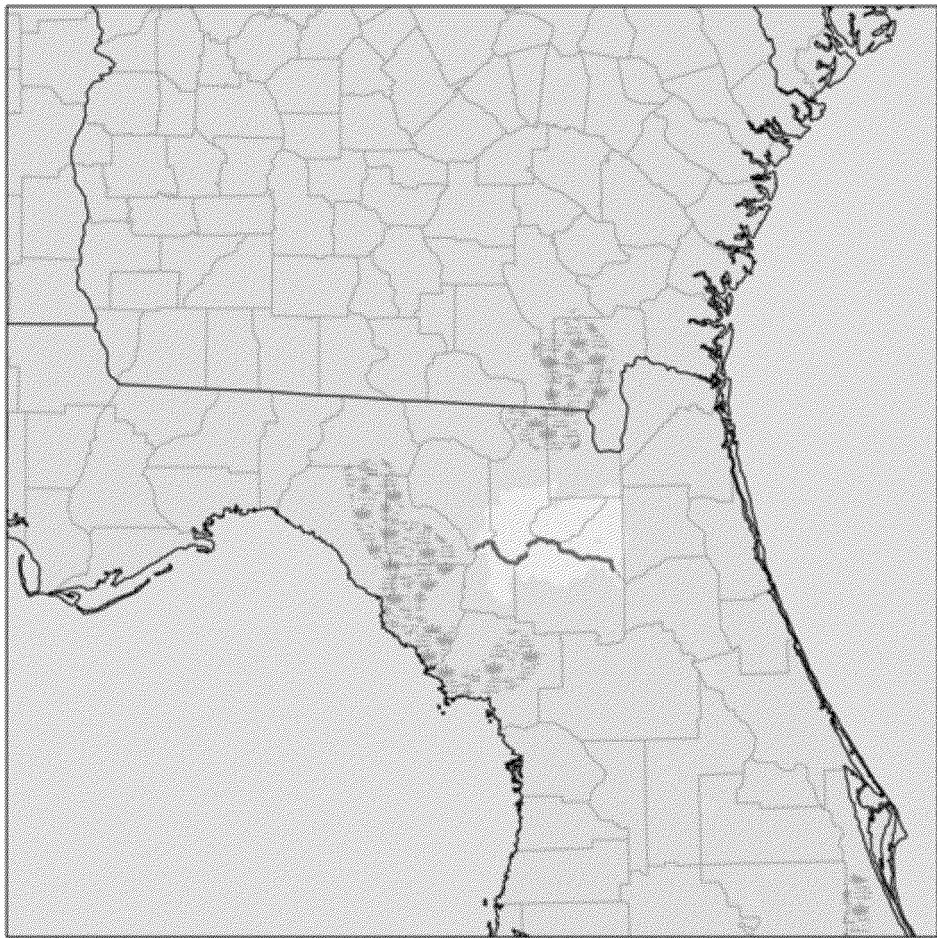
SUSAN P. Bodine
Print or type your full name (last, first, middle)

To: Sarah Greenwalt (greenwalt.sarah@epa.gov)[greenwalt.sarah@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Bodine, Susan
Sent: Wed 11/15/2017 8:09:29 PM
Subject: examples of rivers that flow underground
[Santaferivermap.png](#)

[https://en.wikipedia.org/wiki/Santa_Fe_River_\(Florida\)](https://en.wikipedia.org/wiki/Santa_Fe_River_(Florida)) (natural)

https://en.wikipedia.org/wiki/Mission_Creek (culverts)

Ex. 5 - Deliberative Process



ED_001803A_00005845-00001

To: Sarah Greenwalt (greenwalt.sarah@epa.gov)[greenwalt.sarah@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Bodine, Susan
Sent: Fri 10/27/2017 1:03:57 AM
Subject: WOTUS Definition.docx
WOTUS Definition.docx

OK to cc me on emails transmitting this.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Ford, Hayley[ford.hayley@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]
Cc: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Bodine, Susan
Sent: Tue 10/24/2017 12:45:36 PM
Subject: RE: Home Builder Meeting

OK

From: Ford, Hayley
Sent: Tuesday, October 24, 2017 8:45 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: RE: Home Builder Meeting

Sorry right after I hit send, Ryan put something on his schedule 9:30-10. He should be in at 9:15 if you want to stop by like 9:20, 9:25 to see if he has questions?

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

From: Bodine, Susan
Sent: Tuesday, October 24, 2017 8:42 AM
To: Ford, Hayley <ford.hayley@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: RE: Home Builder Meeting

I sent up a briefer, but I would welcome the opportunity to come by at 9:45 to see if he has any

questions.

Ken, do you want to get him at 11?

From: Ford, Hayley

Sent: Tuesday, October 24, 2017 8:40 AM

To: Wagner, Kenneth <wagner.kenneth@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>

Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>

Subject: Home Builder Meeting

Does he need a quick pre-brief before the Home Builder meeting today or has he read a briefer?
He is free 9:45-10 if you want to stop in and give him some info before you go in.

Also since he's coming over mid-meeting, do one of you want to come grab him or want him to just show up?

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

To: David Fotouhi (fotouhi.david@epa.gov)[fotouhi.david@epa.gov]; Sarah Greenwalt (greenwalt.sarah@epa.gov)[greenwalt.sarah@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]
From: Bodine, Susan
Sent: Tue 10/3/2017 6:38:40 PM
Subject: worth reading
API v. EPA.rtf